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PROCEEDINGS

OF THE

NEW HAMPSHIRE

HISTORICAL SOCIETY,

Vol. 1.

1872-1888.

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CONCORD:

PRINTED FOR THE SOCIETY.

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## TO THE MEMBERS OF THE SOCIETY.

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This volume consists of four parts, printed respectively in 1874, 1875, 1885, and 1888. In binding the volume the several title pages to the parts and the duplicate pages, 99 to 104, inclusive, should be omitted.

### PUBLISHING COMMITTEES.

<i>Part 1, pages 1-84.</i>	{ WILLIAM L. FOSTER, JOHN J. BELL, SAMUEL C. EASTMAN.
<i>Part 2, pages 85-104.</i>	{ WILLIAM L. FOSTER, JOHN J. BELL, WILLIAM B. TOWNE.
<i>Part 3, pages 105-338.</i>	{ CHARLES H. BELL, AMOS HADLEY, SAMUEL C. EASTMAN.
<i>Part 4, pages 339 to end.</i>	{ CHARLES H. BELL, ISAAC W. HAMMOND, ALBERT S. BATCHELOR.

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# NEW HAMPSHIRE HISTORICAL SOCIETY.

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The New Hampshire Historical Society was formed at Portsmouth, May 20, 1823. The number of original members was thirty-one. It was incorporated by an act of the legislature, June 13, 1823; and the first meeting under this act was held in the council chamber, at the state house in Concord, on the same day, when the following constitution was adopted. The by-laws were reported at a meeting held at Exeter, September 17, the same year, and unanimously adopted.

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## CONSTITUTION.

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1. The object of the New Hampshire Historical Society shall be to discover, procure, and preserve whatever may relate to the natural, civil, literary, and ecclesiastical history of the United States in general, and of this state in particular.
2. The society shall consist of resident and honorary members, the former to be persons residing in the state of New Hampshire; the latter, persons residing elsewhere.
3. The election of members shall be by ballot, at the annual meetings. No member shall hereafter be elected by less than six votes; and, in all cases, the votes of two thirds of the members present shall be necessary to a choice.

4. Each member (honorary members excepted, with whom it shall be optional) shall pay, before the annual meeting next following his election, the sum of five dollars. The society may assess taxes, at the annual meetings, on each resident member, not exceeding three dollars in one year. Any person neglecting to pay the aforesaid sum of five dollars, or any tax, for the term of two years, shall cease to be a member.

5. The annual meeting of the society shall be holden at Concord, on the second Wednesday in June. Other meetings may be held at such times and places as the society may from time to time direct. It shall be the duty of the president, and in his absence, of one of the vice-presidents, upon the application of three members, to call a special meeting of the society, of which notice shall be given in a newspaper printed in Concord, and another printed in Portsmouth, at least fifteen days before the meeting.

6. The officers of the society,—to be elected at the annual meeting, and by ballot or otherwise,—shall be a President, two Vice-Presidents, a Treasurer, a Recording Secretary, a Corresponding Secretary, and a Librarian, who shall hold their offices for the term of one year, and until others are elected in their places; provided, that the first election of officers under this constitution shall be made at such time and place as the society may direct.

7. The constitution may be amended at any annual meeting, as the society shall deem proper, by the votes of two thirds of the members present; provided notice of the proposed amendment shall be given in writing, and entered on the journal at the preceding annual meeting.

# BY-LAWS.

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## ARTICLE I.

SECTION 1. At every annual meeting there shall be elected, by ballot or otherwise, a Standing Committee, a Committee on the Library, a Publishing Committee, and a Committee to settle with the Treasurer, who shall make a report of their doings at the next annual meeting, or as often as the society shall direct. These, and all other reports, shall be written on letter paper, with margins of one inch on each side, and shall be deposited in the archives of the society; and, if the society shall deem necessary, they may, at any annual meeting, appoint other committees, and designate the duties to be performed by them. In addition to the annual meetings, quarterly meetings of the society shall be holden in Concord on the third Wednesdays of September, December, and March; and notice of the same shall be given in one or more of the Concord newspapers, by the recording secretary.

SEC. 2. When less than six members are present at any meeting, the consent of two thirds shall be necessary to pass any vote, except to adjourn.

SEC. 3. At the request of any three members present, any motion shall be deferred to another meeting for further consideration before it is finally determined, and shall then be taken up.

SEC. 4. The president, when present, shall preside in the meeting; when he is absent, one of the vice-presidents,—but in their absence, the society shall elect a president *pro tempore*, who shall then preside.

SEC. 5. The librarian shall be keeper of the museum.

SEC. 6. No alteration or addition to the by-laws shall be made, unless there are eight members present, and two thirds of those present vote in favor of the same.



## ARTICLE II.

## LIBRARY AND MUSEUM.

SECTION 1. The committee on the library shall direct the duties of the librarian, fix the times of opening the library, direct the arrangement of books, decide as to sales, exchanges, and binding of books and pamphlets, fix the price of our collections and the Provincial Records, and determine whether and on what terms books shall be taken from the library.

SEC. 2. All books and manuscripts which shall be presented to the library, and every curiosity presented to the museum, when accepted by the society, shall be acknowledged by letter signed by the librarian and president.

SEC. 3. Every present received shall be recorded, and an account of it rendered to the next meeting of the society.

SEC. 4. All pamphlets shall be bound or kept in cases, except duplicates, which shall be kept by themselves, and triplicates shall be exchanged; and no work not a duplicate shall be sold or exchanged out of the library, and no duplicate, except by consent and direction of the committee on the library.

SEC. 5. All manuscripts shall be distinctly marked and numbered, and kept in cases of paper, which shall also be numbered, and the contents of each registered.

SEC. 6. A printed ticket shall be pasted on the inside of the cover of each book, signifying that it is the property of the society, and also the name of the donor, if it be a present.

SEC. 7. No book, pamphlet, map, manuscript, newspaper, or other article shall be taken from the library or museum without the written order of a majority of the committee on the library, or by the publishing committee, for use in performing their duties.

## ARTICLE III.

## LIBRARIAN.

SECTION 1. The librarian and keeper of the museum shall annually give such security to the society as the standing committee shall require, for the faithful performance of his trust, the security to be deposited with the recording secretary.



SEC. 2. He shall receive and have in his custody all books, papers, and productions of nature and art, the property of the society, and which appertain to the library and museum. These he shall arrange in classes, and register in a book, with a proper description of each article, and frequently examine the whole, and keep them in good order.

SEC. 3. He shall record in a book, to be provided for that purpose, every donation presented and accepted by him for the use of the society, expressing the article given, the time, and name of the donor.

SEC. 4. He shall communicate the thanks of the society to each donor for all articles presented, and by him accepted for the use of the society.

SEC. 5. He shall, under the direction of the committee on the library, bind the pamphlets in volumes, and mark and number the manuscripts.

SEC. 6. He shall paste a printed ticket on the inside of the cover of each book, signifying that it is the property of the society, with the name of the donor, if it be a present.

SEC. 7. He shall, at every annual meeting of the society in June, present to the meeting a catalogue of all the books, manuscripts, and maps in the library, and curiosities in the museum, belonging to the society.

## ARTICLE IV.

### STANDING COMMITTEE.

SECTION 1. The standing committee shall recommend plans for promoting the objects of the society; digest and prepare business; inquire for and endeavor to obtain on the best terms, manuscripts, books, and articles of curiosity, and solicit and receive donations for the society.

SEC. 2. They shall inspect the records, and inquire whether all the orders of the society are carried into effect with precision and promptitude; and also the library and museum, and make report of them to the annual meetings in June, and what books are particularly wanted.

SEC. 3. They shall aid the librarian and keeper of the museum, when he shall require it, in the arrangement of the

books, pamphlets, maps, and manuscripts, and the articles belonging to the museum, and especially attend to the preservation and binding of books and pamphlets.

SEC. 4. They shall regulate all the common expenses of the society; make the necessary provision for such small articles as may be wanted; draw upon the treasurer for the payment thereof, and for all such sums as the society may from time to time vote and appropriate for specific purposes.

SEC. 5. They shall, when the state of the treasury will permit, direct the treasurer to loan the money belonging to the society, on interest, taking sufficient security for its repayment, or invest the money in such funds as will be safe and productive.

SEC. 6. They shall, in case of the death, resignation, incapacity, or removal out of the state of New Hampshire, of either of the secretaries, or treasurer, or librarian and keeper of the museum, take charge of the official books, papers, and effects belonging to the office so vacated, one or more of the committee giving a receipt for the same; which books and property they may deliver to some member of the society, whom they may appoint to fill the office until the next meeting of the society, when there shall be a new choice.

## ARTICLE V.

### PUBLISHING COMMITTEE.

SECTION 1. When the funds of the society will defray the expense, and sufficient materials are collected for the purpose, the committee of publication are authorized to make such publications from time to time as they shall deem expedient.

SEC. 2. The contributions for such publications shall be voluntary; and of those made, such only shall be printed as the committee shall direct.

## ARTICLE VI.

### RECORDING SECRETARY.

SECTION 1. The recording secretary shall attend all meetings of the society, record in a book, provided for that purpose, all

their proceedings, and keep the records in custody; and he shall keep all letters he receives respecting the society, and the securities given by the treasurer, and librarian and keeper of the museum, and the same preserve on file, under the direction of the standing committee.

SEC. 2. He shall record the names of all the members of the society and the time of their admission, and transmit to each of them, as soon as may be, a printed copy of the act of incorporation, the constitution and by-laws of the society.

SEC. 3. He shall notify every officer whom the society shall elect, unless such officer was present at the time of his election.

SEC. 4. He shall notify all meetings of the society, annual and special, in one newspaper printed in Concord, and another printed in Portsmouth, fifteen days previous to the day of meeting, in which notification the hour and place of meeting shall be designated; but any neglect in this particular shall not prevent the annual meeting in June, or annul its proceedings.

## ARTICLE VII.

### CORRESPONDING SECRETARY.

SECTION 1. The corresponding secretary shall receive, and, at the next meeting after, read all communications made to the society; he shall conduct and manage all the correspondence of the society.

SEC. 2. He shall, in books provided for the purpose, keep copies of all letters written by him for the society, and deliver over the same, with the letter book, when filled, to the librarian.

## ARTICLE VIII.

### TREASURER, ETC.

SECTION 1. The treasurer shall annually give such security to the society as the standing committee shall require for the faithful performance of his trust; the security to be deposited with the recording secretary.

SEC. 2. He shall give seasonable notice to each member of the society of each and every assessment or tax, the time when

it was raised, and request them to pay it; and also give notice to such other persons as may otherwise be indebted to the society, whenever it may be necessary to collect such debts.

SEC. 3. He shall receive all moneys and evidence of property belonging to the society, pay all orders of the standing committee drawn by them on him, keep a record of his receipts and expenditures, and exhibit the same when requested to, and settle with the committee appointed for that purpose.

SEC. 4. He shall, under the direction of the standing committee, when the state of the treasury will permit, loan the money belonging to the society on interest, taking sufficient security for its repayment, or invest it in such funds as will be safe and productive.

SEC. 5. The committee to settle with the treasurer shall annually examine his accounts and vouchers, and make a report thereon to the society every year at their June meeting, exhibiting a full and particular account of the state of the treasury and funds belonging to the society.

## MEMBERS OF THE SOCIETY.

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### RESIDENT MEMBERS.

#### QUALIFIED ACCORDING TO THE CONSTITUTION OF THE SOCIETY.

Those to which this mark || is affixed were original members; those with a \* are dead; those with a † have removed from the state.

Abbot, Benjamin    *	Bartlett, William Henry *
Abbot, Edward Augustus	Barter, Lewis W.
Abbot, Samuel †	Bedel, John
Abbott, Abiel	Bell, Charles H.
Abbott, Joseph C. †	Bell, John J.
Abbott, William P.	Bell, Louis *
Adams, Daniel *	Bell, Samuel Dana *
Adams, Ebenezer    *	Bell, Samuel N.
Adams, Nathaniel    *	Blair, Henry W.
Aiken, Charles A. †	Blaisdell, Daniel
Alden, Lucius	Bouton, Nathaniel
Atherton, Charles G.*	Bradley, Moses Hazen
Atherton, Charles H.*	Bradley, Richard *
Atherton, Henry B.	Brewster, Charles W.*
Averill, Clinton S.	Brown, Samuel G. †
Badger, William	Brown, John A.
Bailey, William H. H. †	Brown, John F.
Bancroft, Jesse P.	Burleigh, George W.
Baker, Nathaniel B. †	Burleigh, John A.
Barker, David, Jr.    *	Burroughs, Charles *•
Barnard, Daniel	Burt, Federal *
Barrett, William	Butterfield, John Ware †
Barry, John E.	Carrigain, Philip *
Barstow, Z. S.*	Chadwick, Peter    *
Bartlett, Charles Henry	Chandler, George Henry †
Bartlett, Greenleaf C.	Chandler, William E.
Bartlett, Ichabod    *	Chamberlain, Levi *
Bartlett, James    *	Chase, Francis R.
Bartlett, Richard    *	Chase, Henry Bright *



- Cilley, Bradbury L.  
 Clark, William  
 Clarke, John B.  
 Cleaves, George P.  
 Clough, Lucien B.  
 Coffin, Samuel \*  
 Cogswell, Francis †  
 Cogswell, Leander W.  
 Cogswell, Parsons Brainard  
 Cogswell, William \*  
 Conn, Granville P.  
 Conner, Charles G.  
 Coues, Samuel E.\*  
 Crosby, Dixi \*  
 Crosby, Jaazaniah \*  
 Cross, David  
 Cummings, Ebenezer E.  
 Cummings, Horace S.  
 Currier, David  
 Cutter, Charles William || \*  
 Dana, James Freeman \*  
 Dana, Sylvester  
 Davies, Thomas J., Jr. †  
 Dearborn, C. V.  
 Dinsmoor, Samuel \*  
 Dow, Edward  
 Dow, Joseph  
 Downing, Lewis, Jr.  
 Downs, Charles A.  
 Drew, George W.  
 Eames, James H.  
 Eastman, Edson Cummings  
 Eastman, Jonathan \*  
 Eastman, Moses \*  
 Eastman, Philip †  
 Eastman, Samuel Coffin  
 Elkins, Jeremiah  
 Elliott, John H.  
 Farmer, John || \*  
 Faulkner, C. S.  
 Faulkner, Francis A.  
 Fletcher, Samuel \*  
 Fisk, Francis N. \*  
 Fogg, George Gilman  
 Foster, John W.  
 Foster, William L.  
 Fowler, Asa  
 Fox, Charles J.\*  
 Freeman, Asa || \*  
 Frink, J. S. H.  
 Gage, Charles P.  
 Gage, Isaac K.  
 Gale, Charles C. P.\*  
 Gerrish, Enoch  
 Gilmore, Joseph A.\*  
 Goodrich, C. B.  
 Goodwin, Ichabod  
 Goodwin, William F.\*  
 Gould, Sylvester C.  
 Gove, Jesse H.\*  
 Griffin, Simon G.  
 Grover, Benjamin \*  
 Hackett, William H.  
 Hackett, William H. Y.  
 Haddock, Charles B.\*  
 Hadley, Amos  
 Hale, Salma \*  
 Hale, Samuel W.  
 Hall, Joshua G.  
 Handerson, Phineas \*  
 Harris, John A.  
 Harvey, Matthew \*  
 Hatch, Thomas E.  
 Haven, Alfred W.  
 Haven, Nathaniel A., Jr. || \*  
 Hazen, Henry A.  
 Head, Natt  
 Hildreth, Hosea || \*  
 Hill, Isaac \*  
 Hill, Howard Fremont  
 Hill, Joseph C. A.  
 Hoit, Enos  
 Hubbard, Henry \*  
 Humphrey, Moses  
 Hunt, Nathan Parker  
 Hutchins, Abel

Jewett, William R.	Parker, Edward H. †
Jones, William P.*	Parker, Edward P.
Kelley, John    *	Parker, Joel †
Kent, George    †	Parker, Nathan    *
Kent, Henry O.	Pattee, Rufus E.
Kent, William A.*	Patterson, Joab Nelson
Kidder, Joseph	Peabody, Andrew P. †
Kimball, John	Peabody, Oliver W. B.    *
Kimball, William H.	Peaslee, Charles H.*
Knowlton, Edward L.	Peaslee, Edmund R. †
Ladd, Alexander    *	Pecker, Jonathan Eastman
Ladd, Seneca A.	Pecker, Robert Eastman *
Lawrence, George W.	Peirce, Andrew    *
Leonard, Levi W.*	Pickering, Charles A.
Little, William	Pierce, Joshua W.
Livermore, Abial A. †	Pierce, Franklin *
Lohg, Moses *	Pike, Austin F.
Lord, Nathan *	Pillsbury, George A.
Lyford, Stephen C. †	Pillsbury, Parker
McDuffie, Franklin	Plumer, William    *
McFarland, Andrew †	Plumer, William, jr.,    *
McFarland, Asa	Potter, Chandler Eastman *
Mack, Robert C.	Prentiss, John
McQuesten, E. F.	Prescott, Addison
Marcy, Daniel	Prescott, Benjamin F.
Marshall, Anson S.	Prescott, William
Marston, Gilman	Proctor, John
Martin, Noah *	Punchard, George †
Mason, Jeremiah    *	Putnam, Israel W.    *
Mason, John Edwin †	Renouf, Edward P.
Merriam, J. W.	Richardson, William M. *
Merrill, Joseph W.	Rix, John M.*
Mitchell, Stephen *	Rollins, William H.
Moore, Jacob Bailey    *	Runnels, Moses T.
Mugridge, John Y.	Rust, R. S. †
Murray, George W.	Sanborn, Dyer H.*
Muzzey, Reuben Dimond † *	Sanborn, Edwin D.
Nesmith, George W.	Sargent, Charles W.
Niles, William W.	Sargent, Jonathan Everett
Noyes, John W.	Savage, Thomas *
Noyes, Parker    *	Savage, W. T.
Olcott, George	Sawyer, Edward †
Oliver, Daniel †	Sawyer, Henry E. †

Sawyer, Joseph	Upham, Nathaniel Gookin *
Shapley, J. Hamilton	Upham, Timothy    *
Shirley, John M.	Vaughan, Orsino A. J.
Shurtleff, R.*	Varney, John R.
Smith, Albert	Wadleigh, George
Smith, Asa D.	Waite, Albert S.
Smith, Eli B. †	Waldron, Richard Russell †
Smith, George Warren *	Walker, Abiel *
Smith, Isaac W.	Walker, Joseph Burbeen
Smith, Jeremiah    *	Walker, Lyman B.*
Smith, Jeremiah	Warren, Benjamin S.
Smith, William    *	Weare, John M.
Spalding, Edward	Webster, Horace *
Spalding, Isaac	Webster, Gideon *
Sparhawk, Samuel *	Webster, Stephen Peabody *
Stark, William *	Weeks, James W.
Stearns, Eben S.	Weeks, John W.
Stearns, Ezra S.	Wells, John S.*
Stearns, Cnslow	Wheeler, Samuel M.
Steele, John H.*	White, Nathaniel
Stevens, Lyman D.	White, William O.
Stevens, Samuel H.	Whitman, Zachariah G.
Stewart, Charles F.	Whittemore, B. B.
Stone, Benjamin P.*	Williams, Jared W.*
Ten Broeck, Petrus Stuyvesant *	Wilson, James
Tenney, Jonathan †	Wingate, Joseph C. A.
Tenney, Richard P. J.	Wood, Henry *
Thomas, Moses G. †	Woodbury, Peter P.*
Tufts, Asa Alford	Woodbury, Levi    *
Towle, Ebenezer Sanborn	Woodman, Charles W.
Towne, William B.	Woodman, John J.
Twitchell, Amos *	Woods, Andrew S.*
Twitchell, George B.	Worcester, Samuel F.
Tyler, Bennett    *	Worth, Edmund †
Tyler, John E. †	Young, John K.
Upham, James	



## HONORARY MEMBERS.

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Adams, Rev. E. E.*	Pennsylvania,	1846
Alden, Rev. Timothy *	Pennsylvania,	1826
Allen, William, D.D.*	Maine,	1865
Angell, Henry C., M.D.	Massachusetts,	1825
Angier, Rev. Marshall B.	Massachusetts,	1864
Baldwin, Christopher C.*	Massachusetts,	1832
Baldwin, James F.*	Massachusetts,	1855
Ballard, Rev. Edward *	Maine,	1858
Bancroft, George, LL.D.	New York,	1839
Baylies, Hon. Francis	Massachusetts,	1831
Bell, Luther V., M.D.*	Massachusetts,	1844
Benton, Hon. Thomas H.*	Missouri,	1849
Bissell, Edward	Ohio,	1865
Bissell, George H.	New York,	1871
Boltwood, Lucius	Massachusetts,	1859
Bouton, John Bell	New York,	1865
Bowdoin, James, Esq.*	Massachusetts,	1831
Bowen, Francis	Massachusetts,	1850
Bradley, Samuel A.*	Maine,	1838
Bradley, J. B., M.D.	Maine,	1851
Butler, Rev. Franklin	Vermont,	1861
Carter, Nathaniel H.*	New York,	1825
Cass, Hon. Lewis, LL.D.*	Michigan,	1831
Chase, Rt. Rev. Carlton, D.D.*	Vermont,	1832
Chester, Joseph S.	England,	1872
Clifford, Hon. John H.	Massachusetts,	1871
Coffin, Joshua	Massachusetts,	1833
Coffin, Charles Carleton	Massachusetts,	1869
Cogswell, Rev. William *	Massachusetts,	1837
Cogswell, William F.	New York,	1867
Colburn, Jeremiah	Massachusetts,	1867
Danforth, George F.	New York,	1867
Davis, Hon. John, LL.D.*	Massachusetts,	1831

Davies, Charles S., LL.D.*	Maine,	1850
Day, Rev. Thomas	Connecticut,	1840
Dix, Gen. John A.	New York,	1849
Drake, Samuel Gardner	Massachusetts,	1833
Durrea, Daniel S.	Wisconsin,	1867
Eastman, Philip	Maine,	1861
Eastman, Col. Seth	United States Army,	1861
Edmunds, Hon. James J.	Washington, D. C.,	1866
Edwards, Bela B.	Massachusetts,	1839
Ela, Richard *	Washington, D. C.,	1852
Elton, Dr. Romeo *	Rhode Island,	1846
Elwyn, Alfred S.	Pennsylvania,	1873
Emerson, Ralph Waldo	Massachusetts,	1838
Emery, Hon. Nicholas, LL.D.*	Maine,	1850
Everett, Hon. Edward *	Massachusetts,	1827
Felt, Rev. Joseph B., LL.D.*	Massachusetts,	1841
Fessenden, Hon. William Pitt *	Maine,	1851
Fisk, Robert F.*	Massachusetts,	1856
Fitz, Rev. Daniel *	Massachusetts,	1860
Fletcher, Hon. Daniel *	Massachusetts,	1840
Folsom, George *	New York,	1840
French, Benjamin B.*	Washington, D. C.,	1843
Goodrich, Charles B.	Massachusetts,	1872
Gookin, John M.	Maine,	1850
Green, Dr. Samuel A.	Massachusetts,	1867
Greene, Hon. Albert G.*	Rhode Island,	1863
Haines, Hon. William P.	Maine,	1861
Hall, Rev. Edwin	Connecticut,	1851
Harris, Thaddeus M., D.D.*	Massachusetts,	1826
Hawthorne, Nathaniel *	Massachusetts,	1849
Hemsö, Count Jacob Gräberg de,		
Con. General of Sweden, at Firense,		1840
Holden, Luther S.	Massachusetts,	1872
Holmes, Abiel, D.D., LL.D.*	Massachusetts,	1826
Hopkins, Prof. Mark	Massachusetts,	1856
Hoyt, Col. Albert H.	Massachusetts,	1867
Humphrey, Samuel F.	Maine,	1872
Jackson, Francis	Massachusetts,	1826
Jewett, Prof. Charles C.*	Massachusetts,	1867
Jordan, John, Jr.	Pennsylvania,	1866
Kent, Hon. Edward, LL.D.	Maine,	1854
Kidder, Frederick	Massachusetts,	1867
Kingsley, Prof. James L.*	Connecticut,	1837

Lincoln, Gov. Enoch *	Maine,	1827
Lockwood, Legrand *	New York,	1863
Low, Abiel A.	New York,	1871
Ludwig, Herman E.	New York,	1846
McClure, William	England,	1873
Marden, George A.	Massachusetts,	1872
Mellen, Hon. Prentiss, LL.D.*	Maine,	1838
Mickley, Joseph J.	Pennsylvania,	1866
Moore, George Henry, LL.D.	New York,	1867
Moore, Frank	New York,	1867
Morse, Prof. S. F. B.*	New York,	1851
Morton, Levi P.	New York,	1871
Nichols, Ichabod, D.D.*	Maine,	1850
Noyes, Hon. Edward F.	Ohio,	1871
Parker, Henry M.*	Massachusetts,	1853
Parker, James	Massachusetts,	1867
Parker, John A.*	New York,	1871
Parsons, Usher, M.D.*	Rhode Island,	1867
Patterson, Hon. George W.	New York,	1868
Patterson, Peter	Ontario,	1871
Pickering, Hon. John *	Massachusetts,	1855
Plumer, William	Massachusetts,	1856
Poor, Hon. John A.*	Maine,	1868
Prescott, William H., LL.D.*	Massachusetts,	1839
Quint, Alonzo H., D.D.	Massachusetts,	1856
Rafn, Prof. C. C. P. D.*	Denmark,	1828
Sabine, Lorenzo	Massachusetts,	1873
Savage, Hon. James *	Massachusetts,	1825
Sawyer, Nathaniel *	Ohio,	1851
Shattuck, Lemuel *	Massachusetts,	1831
Sibley, Rev. John L.	Massachusetts,	1863
Silliman, Benjamin, Jr.	Connecticut,	1846
Sleeper, Hon. John S.	Massachusetts,	1850
Smith, Cyrus P.	New York,	1871
Smith, Hon. F. O. J.	Maine,	1868
Sparks, Hon. Jared *	Massachusetts,	1850
Spence, Hon. Carroll	Maryland,	1856
Staples, Hon. William R.*	Rhode Island,	1831
Stone, William Leete	New York,	1868
Tarbox, Increase N., D.D.	Massachusetts,	1872
Thatcher, James, M.D.*	Massachusetts,	1832
Thornton, John Wingate	Massachusetts,	1843
Trask, William B.	Massachusetts,	1867

Tucker, Ichabod	Massachusetts,	1827
Upham, Rev. Charles W.	Massachusetts,	1835
Upham, Francis W.	New York,	1865
Upham, Thomas C., D.D.	Maine,	1831
Vaux, William S.	Pennsylvania,	1867
Walker, Charles I.	Michigan,	1865
Washburn, William B.	Massachusetts,	1862
Waterman, Joshua	Massachusetts,	1865
Waterman, Thomas	Massachusetts,	1831
Waters, Joseph Gilbert, Esq.	Massachusetts,	1831
Webster, Hon. Daniel, LL.D.*	Massachusetts,	1825
Webster, Sidney	New York,	1871
Wilder, Marshall P.	Massachusetts,	1871
Willis, William *	Maine,	1856
Woods, Joseph W.	Massachusetts,	1869

## OFFICERS OF THE SOCIETY.

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### PRESIDENTS.

William Plumer,	1823	Charles Burroughs,	1849
Levi Woodbury,	1825	Levi Chamberlain,	1852
Ichabod Bartlett,	1826	William Plumer,	1854
Salma Hale,	1830	Chandler E. Potter,	1855
Matthew Harvey,	1832	Edwin D. Sanborn,	1857
Charles H. Atherton,	1834	Joseph Dow,	1860
Joel Parker,	1838	William H. Y. Hackett,	1861
Nathaniel Bouton,	1842	Joseph B. Walker,	1866
Nathaniel G. Upham,	1844	Charles H. Bell,	1868
Samuel D. Bell,	1847		

### FIRST VICE-PRESIDENTS.

Levi Woodbury,	1823	Levi Chamberlain,	1847
William Plumer, Jr.,	1825	Charles H. Peaslee,	1849
Salma Hale,	1829	Chandler E. Potter,	1852
Matthew Harvey,	1830	Edwin D. Sanborn,	1855
Charles H. Atherton,	1832	Joseph Dow,	1857
Joel Parker,	1834	William H. Y. Hackett,	1860
Nathaniel Bouton,	1838	Joseph B. Walker,	1861
Nathaniel G. Upham,	1842	Asa McFarland,	1866
Samuel D. Bell,	1844	William L. Foster,	1868
Henry Hubbard,	1845		

## SECOND VICE-PRESIDENTS.

Bennet Tyler,	1823	E. D. Sanborn,	1849
Salma Hale,	1826	Asa McFarland,	1852
Matthew Harvey,	1829	Nathaniel B. Baker,	1855
C. H. Atherton,	1830	Joseph Dow,	1856
Parker Noyes,	1832	Levi Chamberlain,	1857
Nathaniel Bouton,	1834	Joseph B. Walker,	1860
Nathaniel G. Upham,	1838	Asa McFarland,	1861
Samuel D. Bell,	1842	Franklin Pierce,	1866
Levi Chamberlain,	1844	John M. Shirley,	1868
Jared W. Williams,	1847	Benj. F. Prescott,	1873

## LIBRARIANS.

Jacob B. Moore,	1823	William F. Goodwin,	1860
Moses Eastman,	1830	Charles W. Sargent,	1867
Abner B. Kelley,	1835	Benjamin P. Stone,	1868
Jacob B. Moore,	1837	William H. Kimball,	1871
Nathaniel Bouton,	1841	Nathaniel B. Bouton,	1872
Joseph B. Walker,	1845	Samuel C. Eastman,	1873
William Prescott,	1850		

## TREASURERS.

George Kent,	1823	E. S. Towle,	1845
Samuel Sparhawk,	1825	J. C. A. Wingate,	1860
George Kent,	1830	Edward Sawyer,	1862
Samuel Fletcher,	1837	William R. Walker,	1865
Asa McFarland,	1839	Charles W. Sargent,	1869
E. E. Cummings,	1844		

## RECORDING SECRETARIES.

John Kelley,	1823	Amos Hadley,	1853
Moses Eastman,	1831	Asa McFarland,	1857
Moses G. Thomas,	1834	Dyer H. Sanborn,	1858
Asa McFarland,	1841	William F. Goodwin,	1859
Franklin Pierce,	1843	William L. Foster,	1862
Edmund Worth,	1845	Samuel C. Eastman,	1867
Joseph B. Walker,	1849	P. B. Cogswell,	1872

## CORRESPONDING SECRETARIES.

Nathaniel A. Haven, Jr.,	1823	Moses G. Thomas,	1841
John Farmer,	1825	Nathaniel Bouton,	1844
Ira Perley,	1839		



## STANDING COMMITTEES.

3 Nathaniel Adams,	1823	2 Franklin Pierce,	1842
3 Nathan Parker,		4 Asa McFarland,	1844
2 Hosea Hildreth,		1 Edmund Worth,	1845
4 O. W. B. Peabody,	1825	4 William Prescott,	1846
3 Matthew Harvey,	1826	1 E. E. Cummings,	1848
3 Henry B. Chase,		1 E. S. Towle,	
1 Parker Noyes,	1829	3 Asa McFarland,	1849
3 William Prescott,		2 Salma Hale,	
1 Richard Bartlett,		3 I. W. Pierce,	1850
1 James Bartlett,	1830	1 Chandler E. Potter,	1851
1 Alexander Ladd,		4 D. Lancaster,	1852
1 Andrew Pierce,	1831	1 R. Bradley,	
1 Henry B. Chase,		13 Joseph B. Walker,	1853
Moses G. Thomas,	1832	1 William H. Bartlett,	
Moses Long,		6 E. E. Cummings,	1854
Jacob B. Moore,		4 Asa McFarland,	1856
4 N. G. Upham,	1834	8 Benjamin P. Stone,	1860
3 Samuel Fletcher,	1834	1 George W. Smith,	
3 Samuel D. Bell,	1837	8 William Prescott,	1861
2 William A. Kent,	1838	5 Samuel C. Eastman,	1866
2 Philip Carrigain,		1 George W. Murray,	1868
1 Thomas Chadbourne,	1840	2 Austin F. Pike,	1869
5 P. S. Ten Broeck,		Joseph B. Walker,	
4 E. E. Cummings,		Ebenezer S. Towle,	1871
4 Salma Hale,		1 William B. Towne,	
1 Richard Bradley,	1841	Enoch Gerrish,	1872

## PUBLISHING COMMITTEES.

*For Vol. I.*

William Plumer, Jr.,  
Parker Noyes,  
John Farmer.

*For Vol. III.*

Richard Bartlett,  
John Farmer,  
Jacob B. Moore.

*For Vol. V.*

John Farmer,  
Nathaniel Bouton,  
Isaac Hill.

*For Vol. II.*

William Plumer, Jr.,  
Richard Bartlett,  
Jacob B. Moore,  
James F. Dana.

*For Vol. IV.*

John Farmer,  
Nathaniel Bouton,  
Isaac Hill.

*For Vol. VI.*

William Cogswell,  
Nathaniel Bouton,  
Alexander Ladd.

*For Vols. VII. and VIII.*

1869.

Samuel D. Bell,  
Nathaniel Bouton,  
Ebenezer E. Cummings

William L. Foster,  
John J. Bell,  
Samuel C. Eastman.

LIBRARY COMMITTEE.

1873.

Joseph B. Walker,

John J. Bell,  
Samuel C. Eastman.



## ACTIVE RESIDENT MEMBERS.

JANUARY, 1874.

Abbot, Edward A.....	Concord.
Alden, Rev. Lucius.....	Newcastle.
Averill, Clinton S.....	Milford.
Ayer, Rev. F. D.....	Concord.
Badger, William.....	Gilmanton.
Bancroft, Jesse P., M.D.....	Concord.
Barnard, Hon. Daniel.....	Franklin.
Barrett, William.....	Nashua.
Barry, Rev. John Edward.....	Concord.
Bartlett, Greenleaf C.....	Derry.
Barton, Hon. Levi W.....	Newport.
Bell, Hon. Charles H.....	Exeter.
Bell, John J.....	Exeter.
Bell, Samuel N.....	Manchester.
Bedel, Gen. John.....	Bath.
Blair, Hon. Henry W.....	Plymouth.
Blaisdell, Hon. Daniel.....	Hanover.
Bouton, Nathaniel, D.D.....	Concord.
Bradley, Moses H.....	Concord.
Brown, John F.....	Concord.
Brown, John S.....	Fisherville.
Burleigh, George W.....	Great Falls.
Chandler, Hon. William E.....	Concord.
Cilley, Bradbury L.....	Manchester.
Clark, Rev. William.....	Amherst.
Clarke, John B.....	Manchester.
Cleaves, George P.....	Concord.
Clough, Lucien B.....	Manchester.
Cogswell, Leander W.....	Henniker.
Cogswell, P. Brainerd.....	Concord.
Conn, Granville P.....	Concord.

Crosby, Matthias F.....	Milford.
Cummings, Ebenezer E., D.D.....	Concord.
Cummings, Horace S.....	Washington.
Currier, David.....	Derry.
Dana, Hon. Sylvester.....	Concord.
Dearborn, Cornelius V.....	Nashua.
Dow, Edward.....	Concord.
Dow, Joseph.....	Hampton.
Downing, Lewis, Jr.....	Concord.
Downs, Rev. C. A.....	Lebanon.
Eastman, Edson C.....	Concord.
Eastman, Samuel C.....	Concord.
Edwards, Hon. Thomas M.....	Keene.
Elliott, Hon. John Henry.....	Keene.
Faulkner, C. S.....	Keene.
Faulkner, Francis A.....	Keene.
Fogg, Hon. George G.....	Concord.
Foster, Hon. William L.....	Concord.
Fowler, Hon. Asa.....	Concord.
Frink, J. S. H.....	Portsmouth.
Gage, Charles P., M.D.....	Concord.
Gage, Isaac K. ....	Fisherville.
Gerrish, Enoch.....	Concord.
Goodrich, C. B.....	Nashua.
Goodwin, Hon. Ichabod.....	Portsmouth.
Gould, Sylvester C.....	Manchester.
Griffin, Gen. Simon G.....	Keene.
Hackett, William H.....	Portsmouth.
Hackett, Hon. William H. Y.....	Portsmouth.
Hale, Hon. Samuel W.....	Keene.
Hall, Joshua G.....	Dover.
Harris, John A.....	Concord.
Harris, Almon.....	Fisherville.
Hatch, Albert R.....	Portsmouth.
Hazen, Rev. Henry A.....	Pittsfield.
Head, Gen. Natt.....	Hooksett.
Hill, Howard F.....	Concord.
Humphrey, Hon. Moses.....	Concord.
Hunt, Nathan Parker.....	Manchester.
Hutchins, Abel.....	Concord.
Hadley, Amos.....	Concord.
Jewett, Rev. W. R.....	Fisherville.
Kent, Col. Henry O.....	Lancaster.

Kidder, Joseph.....	Manchester.
Kimball, John.....	Concord.
Kimball, William H.....	Concord.
Knowlton, Edward L.....	Concord.
Ladd, Seneca A.....	Meredith.
Lawrence, George W.....	Concord.
Lovering, Rev. J. F.....	Concord.
Lyman, Hon. John D.....	Exeter.
Mack, Robert C.....	Londonderry.
Marshall, Anson S.....	Concord.
Merrill, Joseph W.....	Exeter.
Mugridge, Hon. John Y.....	Concord.
Nesmith, Hon. George W.....	Franklin.
Noyes, Hon. John W.....	Chester.
Olcott, George.....	Charlestown.
Parker, Edward P.....	Merrimack.
Parsons, Rev. E. G.....	Derry.
Patten, Rufus E.....	Candia.
Peaslee, Edmund R., M.D.....	Hanover.
Pecker, Jonathan E.....	Concord.
Pierce, Joshua W.....	Portsmouth.
Perley, Hon. Ira.....	Concord.
Pickering, Charles W.....	Greenland.
Pike, Hon. Austin F.....	Franklin.
Pillsbury, George A.....	Concord.
Pillsbury, Parker.....	Concord.
Prescott, Addison.....	East Jaffrey.
Prescott, Benjamin F.....	Concord.
Prescott, William, M.D.....	Concord.
Proctor, John.....	Andover.
Rollins, Hon. Edward H.....	Concord.
Rollins, William H.....	Portsmouth.
Runnells, Rev. Moses T.....	Sanbornton.
Sargent, Charles W.....	Concord.
Sargent, Hon. Jonathan E.....	Concord.
Savage, Rev. William T.....	Franklin.
Shapley, J. Hamilton.....	Portsmouth.
Shirley, John M.....	Andover.
Smith, Albert.....	Peterborough.
Smith, Asa D., D.D.....	Hanover.
Smith, Hon. Isaac W.....	Manchester.
Smith, Hon. Jeremiah.....	Dover.
Spalding, Edward.....	Nashua.

Spalding, Hon. Isaac.....	Nashua.
Stearns, Eben S.....	Exeter.
Stearns, Ezra S.....	Rindge.
Stearns, Hon. Onslow.....	Concord.
Stevens, Samuel H.....	Concord.
Stewart, Charles F.....	Concord.
Towle, Ebenezer S.....	Concord.
Towne, William B.....	Milford.
Varney, John R.....	Dover.
Wadleigh, George.....	Dover.
Wait, Albert S.....	Newport.
Walker, Joseph B.....	Concord.
Warren, Benjamin S., M.D.....	Concord.
Weare, John M.....	Seabrook.
Wheeler, Hon. Samuel M.....	Dover.
White, William O.....	Keene.
Whittemore, B. B.....	Nashua.
Woodman, Charles W.....	Dover.
Worcester, Samuel F.....	Nashua.
Young, Rev. John K.....	Hopkinton.

PROCEEDINGS  
OF THE  
NEW HAMPSHIRE HISTORICAL SOCIETY.

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ANNUAL MEETING.

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CONCORD, N. H., June 12, 1872.

The fiftieth annual meeting of the New Hampshire Historical Society was held in the city council rooms, in consequence of the repairs in progress in the library, at 11 o'clock A. M. The recording secretary being absent, P. B. Cogswell was chosen secretary *pro tem*.

The report of the corresponding secretary was read by Joseph B. Walker, and accepted.

On motion of John A. Harris,

*Voted*, That the thanks of the society be presented to Dr. William Prescott for the donation of valuable papers made by him to the society; also, to John J. Bell and Samuel N. Bell for valuable papers of the late Hon. Samuel D. Bell, presented by them to the society.

The report of the treasurer was read and accepted.

J. B. Walker, from the committee on remodelling the society's building, made a verbal report, which was accepted.

The reports of the corresponding secretary, of the committee on repairs, and on the subject of appointing a librarian, with a view of keeping the library open certain hours on certain days,

were referred to a committee consisting of Messrs. John J. Bell, Joseph B. Walker, and John M. Shirley.

John J. Bell, from the publishing committee, made a verbal report, recommending that the proceedings of the society should be printed and circulated among the members by the publishing committee, which was adopted.

Mr. Walker, from the standing committee, made a verbal report, which was accepted.

Messrs. John J. Bell and John M. Shirley, from the special committee on the return of missing books, made verbal reports, and were instructed to make further investigations.

Mr. Barrett, from the committee to select an orator, reported that Rev. Dr. Tarbox, of Boston, would address the society that evening in the Representatives' hall.

Rev. Dr. Bouton was excused from serving on the Bradley monument committee, and Hon. Moses Humphrey was chosen in his place.

The subject of disposing of the minerals and geological specimens was referred to the committee on reports.

Messrs. William B. Towne of Milford, Joseph Dow of Hampton, and William Barrett of Nashua, were appointed a committee to nominate officers.

Messrs. A. F. Pike of Franklin, S. M. Wheeler of Dover, and Robert C. Mack of Londonderry, were appointed a committee on new members.

William B. Towne, from the committee on the nomination of officers, reported the following, who were elected:

*President*—Hon. Charles H. Bell.

*Vice-Presidents*—Hon. William L. Foster, John M. Shirley.

*Corresponding Secretary*—Rev. Nathaniel Bouton, D.D.

*Recording Secretary*—P. B. Cogswell.

*Publishing Committee*—Hon. William L. Foster, John J. Bell, and Samuel C. Eastman.

*Standing Committee*—Joseph B. Walker, Ebenezer S. Towle, Enoch Gerrish.

*Auditing Committee*—Abel Hutchins, John A. Harris.



Hon. A. F. Pike, from the committee on new members, reported the following persons, who were elected :

#### HONORARY MEMBERS.

Joseph L. Chester, of London, Eng. ; Charles B. Goodrich, Rev. Increase N. Tarbox, D.D., Luther S. Holden, of Boston, Mass. ; George A. Marden, of Lowell, Mass. ; Samuel F. Humphrey, of Bangor, Me.

#### RESIDENT MEMBERS.

W. W. Bailey, Virgil C. Gilman, Samuel T. Worcester, Orren C. Moore, Cornelius V. Dearborn, Edward Spalding, and Frank A. McKean, of Nashua ; David Cross, Joseph W. Fellows, Lewis W. Clark, and Clinton W. Stanley, of Manchester ; James W. Emery and Albert R. Hatch, of Portsmouth ; Joshua G. Hall and George T. Day, of Dover ; Albert Smith, of Peterborough ; H. S. Cummings, of Exeter ; George Olcott, of Charlestown ; George H. Marston, William G. Carter, Charles F. Stewart, Jacob H. Gallinger, John H. Albin, Francis A. Fisk, and Edward Dow, of Concord ; George F. Beede, of Fremont ; Rev. Josiah G. Davis, of Amherst ; Clinton S. Averill and Hon. Bainbridge Wadleigh, of Milford ; Isaac K. Gage, of Fisherville ; Charles S. Faulkner, of Keene ; Josiah C. Eastman, of Hampstead.

On motion of Mr. Dow, an assessment of \$2 was ordered ; and members were permitted to have the fifth volume of the Provincial Papers on paying \$1.50 additional.

Hon. Charles H. Bell, from the committee to whom were referred various reports, &c., reported as follows :

The committee nominate Rev. Nathaniel Bouton, D.D., for librarian, and recommend that the standing committee appoint an assistant librarian, and fix the compensation ; and that Messrs. Joseph B. Walker, Enoch Gerrish, and John J. Bell be a committee to assist the librarian in arranging the library ;—also, that the surplus fund in the treasury be made a permanent fund, the income only to be appropriated to the support of the library ; and that all amounts received from sales of the Provincial Papers belonging to the society be added to the fund ; and that Messrs. Charles H. Bell, William B. Towne, and Rev. Dr. Bouton be a committee to solicit additions to the fund until it reaches the sum of \$5,000 or more ;—also, that the minerals belonging to the society be secured for the present in boxes ;—also, that the standing committee be authorized to make arrangements with the New Hampshire Medical Society, and any association of the bar, for occupation of rooms in the society's building.

The report was accepted.

Dr. Bouton was elected librarian ; and the several measures recommended by the committee agreed to.

Adjourned to 7:15 P. M.

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The society met according to adjournment, at 7:15 o'clock, in the Senate chamber.

Rev. E. E. Cummings, D.D., Hon. William L. Foster, and Hon. Sylvester Dana were appointed to prepare memorial notices of President Nathan Lord of Hanover, Prof. Dyer H. Sanborn of Hopkinton, and Prof. John S. Woodman of Hanover.

The society repaired to the Representatives' hall at 8 o'clock, where Rev. Increase N. Tarbox, D.D., of Boston, delivered a very interesting and instructive address upon the early history of Dartmouth college.

On motion of Mr. Walker, it was

*Voted*, That the thanks of this society be hereby tendered to Rev. Dr. I. N. Tarbox for his very able, interesting, and valuable address delivered this evening, and that a copy of the same be requested for preservation and future publication by the society.

Adjourned.

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## SPECIAL MEETING.

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CONCORD, N. H., Feb. 13, 1873.

A special meeting of the officers of the New Hampshire Historical Society was held in the room of the state librarian, at 11 o'clock A. M., to consider the subject of commemorating the semi-centennial anniversary of the society. After a full discussion, it was



*Voted*, That a celebration of the semi-centennial of the society be held, and incidentally therewith the two hundred and fiftieth anniversary of the settlement of the state be commemorated, and the new rooms of the society in the Historical building be dedicated.

Messrs. Joseph B. Walker, Rev. Dr. Bouton, John M. Shirley, Samuel C. Eastman, Benjamin F. Prescott, Charles H. Bell, and John J. Bell were appointed a general committee of arrangements, with full power to fix the time of celebration, and arrange all the details relating thereto.

Joseph B. Walker, Esq., was selected to deliver the dedicatory address, and Hon. Charles H. Bell the commemorative oration.

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CONCORD, N. H., March 14, 1873.

A meeting of the committee of arrangements was held at the state historian's room, at 11 o'clock A. M.

*Voted*, To invite Miss Edna Dean Proctor to write a poem, to be read on the occasion of the semi-centennial, and George Kent, Esq., an ode.

Thursday, May 22d, was fixed as the day for the proposed celebration and dedication of the society's library, the dedicatory exercises to take place in the society's building in the forenoon, and the commemorative exercises in the Representatives' hall in the afternoon.

Messrs. Joseph B. Walker, Nathaniel Bouton, John J. Bell, Moses Humphrey, and Samuel C. Eastman were appointed a committee to remove and arrange the library in the new rooms.

Messrs. P. B. Cogswell, B. F. Prescott, and William B. Towne were appointed a committee to prepare a notice of, and extend invitations to attend the celebration.

Messrs. Charles H. Bell, B. F. Prescott, and Joseph B. Walker, were appointed a committee to secure portraits for the society's rooms.

## SEMI-CENTENNIAL.

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CONCORD, N. H., May 22, 1873.

Previous to the commencement of the dedicatory exercises in the society's rooms, at 11 o'clock A. M., votes of thanks were passed to Dr. Alfred Langdon Elwyn, of Philadelphia, for a brace of pistols worn by Gov. John Langdon at the time he joined the American army under General Gates, at Saratoga, as colonel of a regiment of his neighbors; to Mrs. N. G. Upham, for a donation of books from the library of her father, the late Rev. Dr. Burnham, of Pembroke; and to the ladies of Concord, who rendered most efficient aid in placing the books of the society upon the shelves in the alcoves.

Joseph B. Walker, Esq., of Concord, delivered the dedicatory address.

Rev. Nathaniel Bouton, D.D., of Concord, made a fervent dedicatory prayer.

The ode, written by George Kent, Esq., of Washington, D. C., the only surviving member of the founders of the society, was read by Rev. J. F. Lovering, of Concord, and sung by a select choir, under the direction of Mr. Morey, to original music composed by John H. Seiffert, of Washington, D. C.

Hon. Marshall P. Wilder of Boston, Mass., President of the New England Historical-Genealogical Society, Hon. Edward Kent of Bangor, a native of Concord, Hon. William H. Y. Hackett of Portsmouth, Hon. George W. Nesmith of Franklin, Hon. Samuel T. Worcester of Nashua, Mr. William B. Towne of Milford, Gen. Natt Head of Hooksett, A. H. Hoyt, Esq., of Boston, also a native of New Hampshire, made brief speeches, which were listened to with close attention.

At 1 o'clock the society adjourned, to meet in the Representatives' hall, at 2 o'clock P. M.

## AFTERNOON SESSION.

The afternoon session was called to order by Hon. William L. Foster, Vice-President, who introduced Hon. Charles H. Bell, who delivered the historical address.

Judge Foster then read the poem written for the occasion by Miss Edna Dean Proctor.

At the conclusion of the literary exercises, a vote of thanks was passed to Hon. Charles H. Bell, and Joseph B. Walker, Esq., for the addresses delivered by them; to George Kent, Esq., for the ode written for the dedication; and to Miss Edna Dean Proctor, for the poem written for the semi-centennial anniversary.

Adjourned.

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ANNUAL MEETING.

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CONCORD, N. H., June 11, 1873.

The fifty-first annual meeting of the New Hampshire Historical Society was held at 11 o'clock to-day, in the library room, the president in the chair.

The proceedings of the last meeting were read and approved.

The corresponding secretary read his report, which was accepted, and also a letter from Hon. Marshall P. Wilder.

The report of the treasurer was presented, read, and accepted.

Mr. John J. Bell, from the publishing committee, made a verbal report, that no publications had been ordered during the year.

The committee on the Bradley monument made a written report concerning the expense of fencing the lot containing the monument, on the Hopkinton road, estimated at \$100. The report was accepted, and placed on file.

Benjamin F. Prescott, from the committee to secure portraits for the society's room, reported that he had secured the portraits of Rev. Dr. Bouton and Dr. Wm. Prescott, now in the hall; and that he had secured in Boston a copy of a portrait of Rev. Dr. Belknap.

The report was accepted, and the committee were requested to continue their labors.

The following resolutions were presented by B. F. Prescott, and adopted:

*Resolved*, That the thanks of the New Hampshire Historical Society be tendered to Nathan B. Prescott, Esq., of Jamaica Plains, Massachusetts, for the excellent portrait of Dr. William Prescott, of Concord, N. H., which he has so liberally presented to this society, and that the secretary be directed to forward a copy of this resolution to Mr. Prescott.

*Resolved*, That the thanks of the New Hampshire Historical Society be tendered to Gen. Joab N. Patterson, of Concord, and others, for the portrait of the Rev. Nathaniel Bouton, of Concord, which they have so liberally presented to the society, and that the secretary be directed to forward a copy of this resolution to each of the names mentioned in the above.

Messrs. W. B. Towne of Milford, S. C. Eastman of Concord, and Robert C. Mack of Londonderry, were appointed a committee to nominate officers.

Messrs. Wm. H. Y. Hackett of Portsmouth, Lemuel H. Stevens of Concord, and John J. Bell of Exeter, were appointed a committee on new members.

Wm. H. Y. Hackett, from the committee on new members, reported the following list, all of whom were unanimously elected by ballot:

#### HONORARY MEMBERS.

Lorenzo Sabine, Boston; Alfred L. Elwyn, Philadelphia; Rev. Wm. McClure, D.D., Londonderry, Ireland.

#### RESIDENT MEMBERS.

George W. Lawrence, David A. Warde, Henry J. Crippen, Oliver Pillsbury, and John V. Barron, of Concord; Joseph N. Cilley, Nottingham; Winthrop H. Dudley, Brentwood; Seneca A. Ladd, Meredith

Village; Rev. Silas Ketchum, Bristol; A. J. Thompson, M.D., Laco-  
nia; Isaac Walker, Pembroke; W. H. H. Allen, Ira Colby, Jr., and  
Hosea W. Parker, of Claremont; Sylvester C. Gould, John B. Clarke,  
Joseph G. Edgerly, Rev. William J. Tucker, and Nathan P. Hunt, of  
Manchester; Frank W. Miller and Woodbury Seavey, of Portsmouth;  
Prof. Charles H. Hitchcock, Hanover; William K. Bartlett, Warner;  
Bradbury L. Cilley, Exeter; Edwin C. Bailey, Hopkinton; Col. John  
B. Bachelder, Gilmanton; Charles H. Burns, Wilton.

The president then read the following communication :

*To the New Hampshire Historical Society :*

The subscriber offers to the New Hampshire Historical Society a  
quantity of books, pamphlets, and periodicals, illustrating the literature  
of this state, to which he proposes to make additions from time to  
time, upon the following conditions, with which the society is to com-  
ply on pain of forfeiting the said donations, viz. :

1. The said books, pamphlets, &c., are to be safely preserved in the  
library of said society, and not allowed to be taken therefrom.
2. They are to be kept always together in some alcove or other con-  
venient place, bearing the surname of the donor, in said library.
3. In each of said volumes shall be inserted a ticket containing a  
statement of the donation to which the same belongs, and the forego-  
ing conditions thereof.

CHARLES H. BELL.

June 11, 1873.

Mr. Joseph B. Walker offered the following resolution, which  
was adopted :

*Voted*, That this society gratefully accept the very liberal donation of  
our president, embodied in the communication just read, upon the terms  
therein set forth; that alcove No. 2 be hereby named the Bell alcove,  
and set apart for the reception of the books presented by Mr. Bell.

William B. Towne, from the committee on nomination of  
officers, reported the following, who were unanimously elected :

*President*—Hon. Charles H. Bell.

*Vice-Presidents*—Hon. William L. Foster, Hon. Benjamin F. Pres-  
cott.

*Corresponding Secretary*—Rev. Nathaniel Bouton, D.D.

*Recording Secretary*—Parsons B. Cogswell.

*Publishing Committee*—Hon. William L. Foster, John J. Bell, Sam-  
uel C. Eastman.



*Standing Committee*—Joseph B. Walker, Ebenezer S. Towle, Enoch Gerrish.

*Auditing Committee*—Abel Hutchins, John A. Harris.

*Treasurer*—Charles W. Sargent.

*Librarian*—Samuel C. Eastman.

The duties of the librarian were referred to the president and standing committee to arrange.

John J. Bell, of Exeter, offered the following resolution, which was adopted :

*Resolved*, That the New Hampshire Historical Society congratulate Rev. Nathaniel Bouton, D.D., upon the useful and creditable manner in which he has edited the six volumes of the New Hampshire Provincial Papers which have already been issued, and earnestly hope that he may continue his valuable labors as state historian until the publication of the provincial papers in relation to towns and the state papers of the revolutionary period shall be completed.

William H. Y. Hackett, of Portsmouth, offered the following resolution, which was adopted :

*Resolved*, That the several addresses and poems, and the proceedings of this society on the 22d of May last, be published in pamphlet form, under the direction of the publishing committee, for distribution among the members and others.

Joseph B. Walker offered several amendments to the by-laws, which were adopted.

The corresponding secretary was invited to read such portions of the memorial of the Livermore family as he deemed best.

Captain Badger, U. S. A., was invited to read a paper on the Indians of the West.

Adjourned to 2 o'clock P. M.

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AFTERNOON.

The society met according to adjournment, the president in the chair.

The recording secretary being absent, Samuel C. Eastman was chosen secretary *pro tem*.

The following persons were elected by ballot as

## RESIDENT MEMBERS.

Hon. Ezekiel A. Straw of Manchester, Levi Bartlett of Warner, and Joseph Wentworth of Concord.

The vote amending the by-laws, passed at the morning session, was reconsidered, and then withdrawn.

On motion of John J. Bell, the by-laws were amended as follows :

In article I, section 1, by inserting after "standing committee," a committee on the library.

Article II was amended so as to read,—

SECTION 1. The committee on the library shall direct the duties of the librarian, fix the times of opening the library, direct the arrangement of books, decide as to sales, exchanges, and binding of books and pamphlets, fix the price of our collections and the Provincial Records, and determine whether and on what terms books shall be taken from the library.

SEC. 2. All books and manuscripts which shall be presented to the library, and every curiosity presented to the museum, when accepted by the society, shall be acknowledged by letter signed by the librarian and president.

SEC. 3. Every present received shall be recorded, and an account of it rendered to the next meeting of the society.

SEC. 4. All pamphlets shall be bound or kept in cases, except duplicates, which shall be kept by themselves, and triplicates shall be exchanged; and no work not a duplicate shall be sold or exchanged out of the library, and no duplicate, except by consent and direction of the committee on the library.

SEC. 5. All manuscripts shall be distinctly marked and numbered, and kept in cases of paper, which shall also be numbered, and the contents of each registered.

SEC. 6. A printed ticket shall be pasted on the inside of the cover of each book, signifying that it is the property of the society, and also the name of the donor, if it be a present.

SEC. 7. No book, pamphlet, map, manuscript, newspaper, or other article shall be taken from the library or museum without the written order of a majority of the committee on the library, or by the publishing committee, for use in performing their duties.

Article III, section 5, was amended by striking out "standing committee," and inserting committee on the library.

On motion of Mr. Walker,



*Resolved*, That the committee having in charge the Bradley monument and grounds be hereby directed to have the corners of said grounds marked by permanent stone bounds, and that such portions thereof be surrounded by a fence as they deem advisable, as soon as means are provided therefor.

On motion of Mr. Stewart, of Concord,

*Resolved*, That a committee of ten be appointed by the chair, whose special duty it shall be to solicit and collect, for the New Hampshire Historical Society, old records and historic documents pertaining to the civil, military, and ecclesiastical affairs of towns and cities, the state or the nation.

Messrs. C. F. Stewart and William Prescott of Concord, John J. Bell of Exeter, S. C. Gould of Manchester, William Badger of Gilmanton, Silas Ketchum of Bristol, Seneca A. Ladd of Meredith, Robert C. Mack of Londonderry, Levi Bartlett of Warner, and Howard F. Hill of Concord, were appointed the committee.

On motion of John J. Bell, of Exeter, the thanks of the society were presented to Dr. Bartlett, of Epping, for the gift of surveyor's instruments.

On motion of Mr. Walker,

*Voted*, That a tax of \$3 be hereby laid upon each resident member, and that any member paying in addition thereto \$2, being the difference between the tax and the price of the sixth volume of the Provincial Papers, shall be entitled to a copy of that volume.

Mr. Towne, of the committee to nominate officers, reported the following gentlemen for library committee, and they were elected:

Joseph B. Walker of Concord, John J. Bell of Exeter, Samuel C. Eastman of Concord.

Mr. Towne gave notice of the following amendment to the constitution, which he will move for adoption at the next annual meeting;—section 2 of article 11 of the constitution to be amended so as to read,—

SEC. 2. The society shall consist of resident, corresponding, honorary, and life members. Resident members shall be persons residing in the state of New Hampshire, and corresponding and honorary members

persons residing elsewhere. Any member may become a life member by the payment of fifty dollars, and shall ever thereafter be exempt from assessment. The money derived from life memberships shall be kept separate and apart from the other funds of the society, shall be denominated the life fund, and the income thereof only expended.

The first two lines of the fourth article to read as follows :

SEC. 4. Each resident member shall pay—.

On motion of Mr. John J. Bell,

*Resolved*, That the payment of a sum not less than fifty dollars shall constitute any member of the society, resident or otherwise, a life member thereof, and he shall thereafter be exempt from all annual assessments, including that of the current year: *provided*, that should this provision not be incorporated in the constitution at the annual meeting in 1874, any money paid for life memberships before that time shall be refunded.

On motion of Mr. Walker,

*Resolved*, That Rev. Dr. Bouton, William B. Towne, and Ebenezer S. Towle be a committee to solicit life memberships of this society by the payment of the sum of fifty dollars for each, and that the money thus obtained be set apart as a general fund, the principal of which shall be forever kept intact, and the income thereof expended from time to time, and until otherwise ordered by the society, for the support of the library.

On motion of John J. Bell,

*Voted*, That a committee be appointed to procure an orator for the next annual meeting, and also to procure papers to be read at the other meetings during the year.

Rev. N. Bouton, D.D., Hon. William L. Foster, and Joseph B. Walker were appointed the committee.

*Voted*, That the president, with the advice of the standing committee, have authority to call special meetings of the society at such times and in such places in the state as they may deem advisable.

On motion of Mr. Towne, it was

*Voted*, That when the society adjourn, it be to the third Wednesday of September, at 11 o'clock A.M.

Captain William Badger, U. S. A., then read a paper on the Western Indians.

On motion of Rev. Dr. Bouton,

*Voted*, That the thanks of the society be presented to Captain William Badger, U. S. A., for his interesting and valuable paper on the American Indians.

Rev. Dr. Bouton then read a communication on the name of Kearsarge mountain, and extracts from a paper on the Livermore family, by Arthur Livermore, consul at Londonderry.

On motion of Rev. Mr. Lovering, it was

*Ordered*, That the paper on Kearsarge mountain be printed.

Hon. George G. Fogg made some remarks on the subject of a memoir of Hon. Meshech Weare.

On motion of Mr. Hill,

*Voted*, That the several papers read be placed on file, and the secretary instructed to return thanks for the same.

Adjourned.

# PEDICATORY ADDRESS.

BY JOSEPH B. WALKER, Esq.

(See page 32.)

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*Mr. President, Brethren of the Society, and Ladies and Gentlemen:*

When the good state of New Hampshire had been settled two hundred years, a conviction dawned upon the minds of a few among its most intelligent and choicest sons that the time had fully come to institute efficient measures for the preservation of the wasting materials of its history, particularly of its early history. Our records were not, like those of Egypt and Nineveh, cut upon enduring rock, which, protected by the *débris* of fallen temples and the desolations of ruined empires, has preserved them for centuries and decades of centuries, even to this our day. They were but brief, at best, and, inscribed upon scattered volumes and loose papers, were exposed to all the dangers of accident and neglect. Many, indeed, had already perished, and irrecoverably. But, for that reason, those which had escaped were, like the remaining books of the Sibyl, the more precious for being the last and only ones abiding.

To secure the gathering, arranging, and preserving of these scattered leaves, thirty-one gentlemen, from different sections of the state, met at Portsmouth, on the 20th day of May, 1823, and organized the New Hampshire Historical Society. It was only fifty years ago, and yet ours ranks in age as the fifth historical society in this country,—Maine, Massachusetts, Rhode

Island, and New York being the only states that preceded our own in this good enterprise. In June (the 13th) following, the legislature endowed it with corporate powers; and its first members located it at Concord, where it has ever since remained.

A few years only elapsed before the fact became apparent that a local habitation, as well as a name, was indispensable to its success. For a time, its books, manuscripts, and other collections were kept at the offices and houses of its officers. This arrangement, however, becoming impracticable, the standing committee were directed "to procure some room" for the society's accommodation. In pursuance of this direction, application was made to the legislature in 1829, and the use of committee room No. 12, in the state house, was placed at its disposal. It was a small and low one, in the fourth story, and on the west side of the south wing. Here were gathered its library and other collections, and here were established its headquarters. But the straitness of this apartment was soon painfully apparent, and a further application was made to the same body, in 1835, upon a petition, signed by William Plumer and others, for an appropriation with which to erect for the society's use a fire-proof building. This proving unsuccessful, the year following efforts were made to secure means for this purpose by private subscriptions; but these proved unavailing. The increase of the library had now become such as to render more extensive accommodations imperative, and, in 1839, such were found in the hall of Blazing Star Lodge, on Main street, and opposite the Phenix hotel. But, as this apartment was occupied in common with the fraternity of the lodge, the inconveniences incident to a joint use were ere long manifest, and induced a second removal to the hall in the building of the Merrimack County Bank. This was made in 1840, and here, where we are now assembled, our society has since found a home. The managers and principal stockholders of the bank, cognizant of its narrow resources and sympathizing in its efforts, gave to it the use of their upper story for the mere nominal rent of fifteen dollars a year; and this, too, was called for at such times only as the condition of the society's treasury made convenient. But, in 1866, the third charter of the bank



expired by limitation, and the present national banking act rendering its renewal undesirable, the close of its business impelled the disposition of its building. Then arose the painful inquiry, "Where," upon this event, "shall the society find a new abode?" Its library had now grown to six thousand five hundred volumes. It had numerous collections, illustrative of our early history. It had newspapers and pamphlets in uncounted numbers, and needed more spacious accommodations than it had ever had; but it was as poor almost in money as it had been forty years before. Where now might it find a new shelter? This was a trying point in its history. But we are told that the thickest darkness precedes the dawn, and that there comes, ere long, a rift in the thickest clouds. And rich indeed the society now found itself in warm hearts and willing hands ready to aid it. At the very point of its extremity, and when its horizon was darkest, four of its old friends met, one afternoon in the winter of 1868-9, to devise, if possible, some means to remove its embarrassment and secure to it a permanent home of its own. Four subscriptions, of two hundred dollars each, subsequently increased by a fifth of equal amount, were then made towards the sum requisite for the purchase of this building, whose upper story it had occupied for nearly thirty years, and the whole of which its growing wants would, ere long, demand. This beginning of a thousand dollars, the hearty efforts of Dr. Bouton and some others more than trebled. With the money thus raised, this structure was purchased on the 9th of June, 1869, and conveyed in fee simple to the society.

It needed, however, important alterations to adapt it to the growing wants of our organization. To make it, as far as possible, fire proof to all external risk, its side windows were removed and their openings filled with masonry; its battlements were repaired; and all parts of its roof, not previously thus protected, were covered with slate. Attention was next directed to the inside, and the second and third stories were converted into a single apartment, by a removal of all interior walls, together with the central part of the upper floor, the outer portions being left as a gallery. Upon both floors, alcoves of an aggregate capacity for twenty-one thousand volumes of



medium octavo size were constructed, as now seen; while the north and south walls of the gallery were left, for the present, that they may be occupied by paintings. This arrangement gives us a library room 48 feet long, 30 feet wide, and 21 feet high. In the modifications thus made, two points have been prominent in the minds of those intrusted with their execution,—the first being safety from fire, and the second, general convenience.

The lower story remains undisturbed, and subject to such alterations as future necessities shall suggest. It contains four good rooms, besides a large stone vault for the safe keeping of particularly valuable papers, which is encased in brick, and furnished with doors of iron.

It may be proper here to recur to the previous history of this building which our society has adopted as its home. The lot upon which it stands is a part of one of the original house-lots laid out in 1726 for the original settlers of Concord, and was assigned, in the distribution, to Jacob Abbot. Soon after the close of the Revolution it was purchased by Major Daniel Livermore, an ardent patriot, who entered the country's service at Bunker Hill as a second lieutenant in the first New Hampshire regiment, then commanded by Colonel John Stark, and followed the varying fortunes of the war to its close, remaining in the army until December, 1783, when he resigned his commission and returned to Concord.

In 1806 the legislature granted to sixteen grantees, and their associates, the charter of a bank called the Concord Bank. At a meeting of these, held soon after for organization, differences of opinion arose in relation to its management and location, which resulted in their division into two parties, and the establishment of two banks under one and the same charter, each claiming to be the Concord Bank established by the general court. And, what is not a little singular, both did a successful business under this one charter for twenty years, and until its expiration by limitation. The upper bank, as it was called, upon commencing operations, purchased of Mrs. Livermore the premises of her late husband, and occupied a portion of the dwelling-house then thereon as its place of business. Upon its first charter's expiration, in 1826, a new one was obtained;

and, under the corporate name of the Merrimack County Bank, the business was continued for forty years more, and until 1866, when its third charter expired, and the bank ceased to exist,—the institution of national banks about that time rendering banking under state laws unprofitable. At the commencement of business under the second charter, the bank, feeling the need of more spacious accommodations than it had previously enjoyed, erected this building. It was an imposing edifice at that time. The bank retained for its own use the north half of the first story. For many years the New Hampshire Savings Bank in Concord, and the Merrimack County Insurance Company, occupied the south half. The second floor was devoted to offices,—the register of deeds for Merrimack county, the selectmen of Concord, General Charles H. Peaslee, ex-President Pierce, Dr. Bouton, and others having from time to time occupied rooms upon this floor. The third story was used as a public hall until 1840, since which time, as before remarked, it has been occupied by this society. Such, in brief, is the history and title of our premises. The former is honorable, and the latter is perfect. In both we may rest content.

Does any one ask, What has the New Hampshire Historical Society accomplished during these fifty years of its existence? In part answer to this question it may be said, that

1. It has awakened and stimulated to activity an interest in our town and state history which was before either dormant or unborn. It has created in the minds of many individuals a taste for historical research, and an appreciation of the importance of rescuing from oblivion and preserving the fast-fading traditions and records of our former years. As one evidence of this, I cite the fact that every one of our New Hampshire town histories, now numbering at least twenty-nine, and perhaps more, has been published since the establishment of this society.

2. With very limited resources at its command, and with a corps of members almost all of whom have been men daily busy in the various pursuits of life, it has gathered an historical library, of moderate size indeed, as yet, but of great value, containing, as it does, books and manuscripts and pamphlets, many of which are rare, and some of them not to be found

elsewhere. And hither, somewhat as to Mecca, historical pilgrims have been wont to come, not indeed to pray, but to work; and yet, if the terse maxim of the old monks, "*Laborare est orare*," be true, there has been prayer in these upper rooms during the three decades last past.

3. Indeed, there has ever been in this society a body of men keenly alive to every historic good work and deed. When, in 1837, the state, awakened to the importance of caring for its early archives, was seeking an individual competent, both by temperament and education, to examine and systematically arrange in volumes its confused and wasting records, it here sought and found the man best fitted of all others within its limit for that important work. The skill and fidelity with which Dr. Farmer, then our corresponding secretary, performed this difficult task, are made evident by even a cursory examination of the forty-five folio and two quarto volumes of early manuscript records by him arranged, and now found in the office of the secretary of state. Of all the numerous works of this eminent antiquarian, no one contributes more to his honor, or confers upon posterity a greater boon. And when, again, thirty years later, the state decided to advance another step and gather into printed volumes its provincial papers, in order that, by a multiplication of copies, it might not only secure their preservation, but also bring them within convenient reach of all having occasion to consult them, it again sought and found among our members a man, eminently prepared by natural endowments and education, to edit and superintend their publication. The ability with which our present corresponding secretary, Dr. Bouton, is discharging the important duties of state historian, is abundantly attested by the six thick and closely printed volumes of original, and, for the most part, previously unpublished, provincial records and papers, already issued under his direction. It is greatly to the credit of the New Hampshire Historical Society that it has been able to furnish from the roll of its members, to the historic service of the commonwealth, two such men as Dr. Farmer and Dr. Bouton. And I cannot but embrace this opportunity to say that the intercourse between the state and this society has ever been of the most cordial character. The constant sympathy and occa-

sional pecuniary aid of the former have been of great consequence at times when, in addition to a general indifference to its work, the straitness of its resources has weighed heavily upon it. There are times, critical times, in the life of such an organization, when a dollar is worth more than a dollar, and when even a small assistance results in permanent benefits which no mere pecuniary standard can measure.

4. But the efforts of the society have been by no means restricted to the awakening of a taste for historic research, to the encouragement of the preservation of our early records, and to the establishment of an historical library. It has also prepared and published eight octavo volumes of original papers and manuscripts, most of which will be sought for in vain in any other publication. These, however, are but the commencement of a series whose continuation is certain, and the materials for which exist in abundance, and are at the society's command.

Thus far have we gone, and thus much, certainly, have we accomplished. Fifty years are behind us; how many before, we know not. We are sure that the fifty just completed have not been idle ones. No one can say to our brotherhood, as did the revelator to the old church of Sardis,—“Thou hast a name that thou livest, and art dead.” As we glance backward through the vista of these receding years, it narrows by degrees to a small initial point, when the single volume I hold before you, the gift of Jacob B. Moore, and the first donation to the society, constituted its entire library, and when a taste for historical study was confined to half a score or less of individuals in all the state. But, as we glance forward from the position now occupied, the vista widens; and what shall be the magnitude of the society's work when another generation fifty years hence meets to celebrate its first centennial, Omniscience only can reveal.

Two important wants now press imperatively upon us:

1. We need an immediate increase of our library. While in some departments it is tolerably full, and in that of congressional history quite so, yet in most it is greatly deficient. If our aim is to gather here an historical library worthy of ourselves and worthy of our state, there is much for us and for our successors yet to do. We need upon our shelves not only all the



public and private papers and manuscripts which throw light upon our history and are within our reach, but a copy of every historical address, and every New Hampshire town history already or hereafter issued. We must have full sets of the regular or occasional publications which contain the current history of the ecclesiastical, legal, medical, educational, agricultural, mechanical, and railroad movements in our commonwealth. We want, too, so far as they may be had, similar publications of other states, particularly of all the New England states. We cannot claim for our library even an approach to fulness, until it contains a copy of every state and United States history, as well as the works of the leading foreign historians. And who will secure and keep copies of the works of our native authors, the best possible material for the future bibliography of the state, if we do not? We want, and can and must have, here within these walls, to be extended if need be, an historical library, full, and, so far forth as possible, perfect of its kind. And, that knowledge be not buried, let it be a free one, with no "*Cave Canem*" of doubtful import inscribed upon its threshold, but a generous "*Salve*," rather, upon every portal, to invite to its alcoves every true historic student of any state, and from every land.

2. But, in order to condense this dream to the solidity of a practical reality, the regular services of an efficient librarian are indispensable, and at once. Through his efforts it may be effected, and, in a great degree, by exchanges of the volumes of our Collections and of the Provincial Papers at our disposal for works our library needs. Many persons, possessed of rare documents and books, would readily deposit them here, either as gifts or for safe keeping, if reminded of the opportunity; and many an author would gladly place upon our shelves a copy of his works. The resources at our command would suffice to double the number of volumes now on hand, if judiciously applied to that purpose.

Yes, we have reached a time when the appointment of an active librarian can no longer be deferred. The great want of a new catalogue suggests it, an increasing public desire calls for it, the increase of our library asks for it, and its very preservation demands it. I trust, therefore, that you will pardon me

if I commend to your favorable consideration the subject of the librarian's fund, discussed somewhat at our last annual meeting, and suggest its immediate enlargement to such an amount as present exigencies require.

Mr. President, and Gentlemen of the Society: The committee to whom this building was intrusted a year ago for modifications and repairs, having discharged the duty then assigned them, have directed me to remand it to you; and, with these keys, I now pass it into your possession. Located at the end of one half century and at the beginning of another, it stands between the two, a memorial of the point we have now reached, and the presage of a glowing future.

As we proceed to dedicate it to the high purpose to which it is devoted, we naturally think ourselves of the founders of the institution whose home it is, and would fain leave to them this crowning of the work their hands, five decades since, began. But, alas! they will not be here to-day to mingle in the ceremonies of this hour. With a single exception, they have all exchanged the brief annals of time for the infinite periods of futurity. Dr. Benjamin Abbot, the beloved principal of Exeter academy, and his accomplished assistant, Prof. Hosea Hildreth; Nathaniel Adams, the annalist of Strawberry Bank, and Ebenezer Adams, of Hanover; David Barker, of Rochester, and the Bartletts, Ichabod and James and Richard, a brilliant trio; Peter Chadwick, of Exeter, energetic and enterprising; Charles W. Cutter and Asa Freeman, both of Dover, and both good men and true; the graceful scholar, Nathaniel A. Haven, Jr.; John Farmer, eminent as an historian and genealogist both; John Kelley, of Northwood, brusque and honest; Alexander Ladd and Jeremiah Mason, one the intelligent merchant, and the other the Jupiter Tonans of the New Hampshire bar; Stephen Mitchell, of Durham; Parker Noyes, of Salisbury; Jacob B. Moore, of Concord, the able journalist and antiquarian; Dr. Nathan Parker, of Portsmouth, eminent as a divine and beloved as a pastor; Oliver W. B. Peabody, of Exeter, the charming poet; Andrew Pierce, of Dover; the Plumers, father and son, of Epping, one distinguished as a lawyer and statesman, and the other as a facile writer of prose and verse; Rev. Israel W. Putnam, of Ports-



mouth ; William Smith, of Exeter, and Judge Jeremiah Smith, his father, as able as a statesman and jurist as he was noted for his scholarship and wit ; Dr. Bennet Tyler, president of Dartmouth college ; General Timothy Upham, ardent and generous in his impulses ; and Levi Woodbury, the sound lawyer and incorruptible judge ;—these thirty of our first members, a luminous galaxy and glorious, now all adorn another sky, and shine elsewhere. One only of the original number—George Kent, then of Concord and now of Washington city, the genial poet and accomplished gentleman—alone survives. Would that ours was the privilege of welcoming him here to-day, that we might hear from his lips the interesting, precise, and accurate account he would be glad to give us of the birth of our society at Strawberry Bank fifty years ago. But, although in this desire we cannot be gratified, since official engagements forbid his presence, we have the pleasure of knowing that he is with us in spirit. His heart is here ; and his muse, to whose smooth numbers we have so often listened, breathes in graceful lines his sympathy with this occasion.

It is an impressive fact in the economy of Omniscient rule, that mortality attaches to every individual. Each one, having accomplished his life work, joins

“ The innumerable caravan that moves  
To that mysterious realm where each shall take  
His chamber in the silent halls of death,”

and which hastes not and halts not. But it is a consoling fact that a good man's works survive him, passing down through the ages to cheer and to bless. These fathers, now all gone, alas ! but one, have left behind them in this society a monument that will tower higher and higher as the decades and the centuries pass it by. Be ours, brethren, the noble ambition so to serve its high interests, that our names be remembered in its halls and written upon its tablets.

## DEDICATORY PRAYER.

BY REV. NATHANIEL BOUTON, D.D.

*(See page 32.)*

Almighty Father, Lord of heaven and earth, we acknowledge thee as the author of our being, the giver of every good and every perfect gift. We thank thee for endowing us with reason and understanding, with conscience and memory, with will and affections of heart, and for making us capable of knowing, loving, and serving thee, and of being useful to our fellowmen in the various relations of life.

As in all thy works above and around us, so we acknowledge thy hand in history: in the records of the past, in thy dealings with nations and individuals, we behold evidence of thy wisdom, thy power, and thy goodness.

We thank thee for the memories awakened by the occasion on which we are assembled; for the early settlement of this commonwealth, and for the goodly heritage which has come down to us from the fathers;—particularly we thank thee for the institution of the society whose anniversary we celebrate; for the noble purposes, the worthy character, and the laudable deeds of its founders; and for its steady growth and enlargement during the past fifty years, in numbers, in resources, and in usefulness.

We praise thee with grateful hearts to-day for the liberality which hath procured this edifice, and insured it to the use of the society, we trust, for years and generations to come.

Acknowledging the care and blessing of thy good providence, we would humbly and thankfully dedicate this edifice, with all that appertains thereunto, to be henceforth and ever used for historic purposes; for the gathering and storing of

books and records pertaining to the past and present ; for aids in the acquiring and diffusing of useful knowledge ; and for preserving and transmitting the blessings in this regard, which we enjoy, to those that shall come after us.

Be pleased, Almighty Father, to accept this dedication at our hands. Let thy favor in the future as in the past crown our purposes and labors with success. If it please thee, guard and preserve this edifice, with all its precious historic treasures, from the devouring conflagration, and from all causes of essential injury. Impart fresh zeal and resolution to the members of the society, to prosecute the objects of it with energy and success ; if it please thee, raise up benefactors for its more liberal endowment, and for a wider diffusion of its benefits to the community around us, and to all mankind.

Confiding in thy good providence in the future, we commit our ways unto thee. Encouraged and stimulated by the example of those who have preceded us, and have passed off the stage of life,—commending the only surviving one of the founders to thy benediction,—we humbly ask that grace may be given us faithfully to serve thee and our generation according to thy will, and that at last we may receive the reward of good and faithful servants in thy kingdom, through thine infinite mercy in Jesus Christ our Lord. AMEN.

# ODE:

FOR THE

Semi-Centennial Celebration of the New Hampshire Historical Society,

AT CONCORD, N. H., MAY 22, 1873.

BY GEORGE KENT,

Only surviving member of the original organization.

*(See page 32.)*

History's muse anew is waking—  
Time's half-century is breaking  
    O'er our old Historic band ;  
Through the granite of our seeming—  
Far beyond the poet's dreaming—  
Light and love are ever beaming—  
    Heart to heart, and hand to hand.

Fitting seems this festive season,  
"Flow of soul and feast of reason,"  
    For a cordial, warm embrace ;  
No sectarian disunion,  
But enlarged and free communion,  
Concord full, and perfect union,  
    Well becoming time and place.

Though our homes, of cliff and mountain,  
Boast of no Arcadian fountain,  
    Nor Italia's sunny skies,  
Our past history assures us—  
While our hardy clime inures us—  
MAN, the growth our soil secures us,  
    As New Hampshire's richest prize.

With our progress, great and glorious,  
Sadden'd memories come o'er us,  
    Calling up a hallowed band ;  
Of the founders of our order,  
All but one have cross'd life's border,  
Meeting hence their just Rewarder,  
    In a brighter, better land.

As frail tendrils, intertwining,  
Force derive from their combining,  
    Giving while receiving strength,—  
So may heart meet heart in feeling,  
Tenderest sympathies revealing,  
Till the work of love's annealing  
    Perfect be in heaven at length.

Then, in accents sweeter, stronger—  
Then in praises louder, longer—  
    Each full heart shall vocal be ;  
Deepest diapasons sounding,  
Highest notes of joy abounding,  
Through heaven's arches wide resounding—  
    Chorus of Eternity!

## REMARKS

OF COL. MARSHALL P. WILDER, COL. ALBERT H. HOYT, OF BOSTON,  
MASS., AND OTHER GENTLEMEN.

(See page 32.)

Col. Marshall P. Wilder, of Boston, Mass., was introduced as a son of New Hampshire, and the president of the New England Historic, Genealogical Society, and responded as follows :

*Mr. President:* I thank you for this kind introduction to the good people of my native state ; and I beg to assure you that I am most happy to be here, and to participate in the privileges of this interesting occasion. I am happy to be in New Hampshire again ; once more to inhale invigorating breezes from her mountain crests, although, perhaps, a little too easterly to-day ; once more to breathe the air of those fields where my ancestors lived and labored for many years. And I do assure you, sir, that I never return to New Hampshire, but, with the first sight of her granite peaks, my heart rises in gratitude to my Heavenly Father that he permitted me here to be born ; here to be educated and nurtured ; here to be instructed and trained up in those principles of moral and religious obligations, to which I am indebted more than to any other cause for anything which I may have done to promote the welfare of society or the happiness of my fellow-men. It is a trite remark, that "New Hampshire is a good state to emigrate from" ; but I confess, sir, I never understood the full import of those words, unless it be that by educational training she endows her sons with that industry, intelligence, and enterprise that qualify them to be useful, before she sends them out from the old homestead. She cannot boast of a luxuriant soil, like that of some other regions. Her climate is cold and stubborn. But whatever may be said of the infertility of the one, or the inclemency of the other, she has raised one product of which she may justly be proud,—her crop of men and women, who have gone forth from her schools, churches, and literary institutions to bless the world. Well may she rejoice. What they have already done in moulding the destinies of the American people will gild the page of our history with an increasing efful-



gence. Time will not permit me to refer to the long roll of soldiers, jurists, scholars, clergy, and statesmen, whose names and deeds have graced the history of this state in the remote past; but I cannot forget on this occasion the names of Webster, Woodbury, Pierce, and others, of our own time; or of Greeley and Chase, whose names have been added so lately to her starred roll of deceased worthies.

I rejoice, Mr. President, in the prosperity of your institution, and the good it has already accomplished. You have performed a good work; but you have much more to accomplish. To you, sir, and your society, is committed the sacred trust of preserving and perpetuating the history of New Hampshire, and that of her sons, to the latest generation.

I desire also to acknowledge the kind aid rendered by yourself and this society to the institution over which I have the honor to preside, and to tender you our hearty coöperation for the advancement of the objects of your society.

Mr. President: I must not trespass on your limited time. Suffice it to say that it affords me great satisfaction to be here again, bringing up, as this occasion does, the reminiscences of bygone days, and rejuvenating the soul with a recollection of home, family, and friends, and those halcyon scenes of youth and early life, which no language can describe. In the words of the poet, applied on a similar occasion,—

“I feel the gales that from ye blow,  
A momentary bliss bestow,  
As waving fresh your gladsome wing,  
My weary soul ye seem to soothe,  
And redolent with joy and youth,  
I breathe a second spring.”

The Hon. Edward Kent, of Bangor, Me., was called up, and responded with a very happy speech, saying that there were those who made history, who wrote history, and who perused history; and urged the importance of proving and preserving the facts of history.

The Hon. W. H. Y. Hackett, of Portsmouth, declined to speak beyond saying that he attended the second meeting of the society in Portsmouth, when he was a law student.

The Hon. Geo. W. Nesmith, of Franklin, stated that in an original map of New Hampshire in his possession, Merrimack

river was called Penacook river ; and spoke at some length of the importance of procuring town histories at once, before the early records and papers were lost.

The Hon. Samuel T. Worcester, of Nashua, gave a fact in relation to Gen. Stark's report of the battle of Bunker Hill, as he found it when looking up the records of Hollis. Sixty men were in that fight from Hollis, eight of whom were killed ; but no record of this could be found in the state.

William B. Towne, Esq., of Milford, also spoke of the importance of preserving town records, and especially of having those which are perishing copied and rebound.

Gen. Natt Head, of Hooksett, suggested that towns should have fire-proof vaults to preserve their records.

Col. Albert H. Hoyt, of Boston, Mass., an honorary member of the society, having been called upon by the president, said,—

*Mr. President:* As a native and former resident of this state, I am very much interested in its history, and in the prosperity of our society, whose object and function it is to collect, preserve, and publish whatever may fitly illustrate the annals of the state and the lives of its leading citizens. Hence it is gratifying to see the evidence presented to us here to-day that our society has entered upon a new lease of life ; upon a career of enlarged enterprise and greater usefulness. This spacious, convenient, and appropriate building, now the property of the society ; these well-filled shelves ; and this large assemblage of ladies and gentlemen who have come together from different and remote parts of the state, testify to the prosperity of the society, and to the interest felt in its objects and in its work.

The New Hampshire Historical Society has not been idle ;—it has not been content merely to collect a mass of books, manuscripts, and relics of historical interest ; but, during its fifty years of life, it has published, at a very moderate cost to the public, a series of Historical Collections which are of great value, not only to citizens of the state, but to all everywhere who are interested in its history.

In addition, it has encouraged, in various ways, the preparation and publication of local or town histories ; and, if it had accomplished nothing more, the society would be entitled to

great credit for the stimulus and steady support it has given to the publication by the state of several volumes of its Provincial Papers. These volumes reflect great honor, not only upon the state for its wise liberality, and prudent care for its inestimable and fast perishing historical records, but, also, upon their compiler and editor, our veteran corresponding secretary.

Moreover, I do not doubt that the preparation and publication of the military history of the state, begun and carried through under the administration of Adjutant-general Head, are due to influences flowing from this society. It is to be earnestly hoped that this military history, now scattered in several volumes of reports from the adjutant-general's office, may be collected and incorporated with our society's publications; and that the state may be induced to continue its publication of Provincial Papers so as to include the revolutionary war.

Still further: in reckoning up important results, we must not overlook the less conspicuous, but very valuable, labors of individual members, some of the fruits of which have appeared, from time to time, in the pages of the *Historical and Genealogical Register*, which, for several years last past, I have had the honor to edit, as a "labor of love," and which has devoted a good deal of its space to New Hampshire history. One of the most important, and certainly one of the most interesting of these contributions, is the long-lost and much-sought-for Squamscott Patent, which was recently discovered, by our president, among the old files of the courts, in Exeter.

It ought to be presumed, Mr. President, that the past and present labors of the officers and members of the society are duly estimated by the good people of New Hampshire, and that they will give a hearty and liberal support to its unselfish mission and efforts in the future. But if, unfortunately, those labors are not rightly valued at the present time at home; if it is true of them, as it is of your lofty mountains, that the observer must take his stand at a distance in order to appreciate their full proportions,—let me assure you, if that is any satisfaction, they are highly appreciated outside this state by members of kindred societies.

ADDRESS OF CHARLES H. BELL,

BEFORE

The New Hampshire Historical Society,

ON MAY 22, 1873:

BEING THE SEMI-CENTENNIAL ANNIVERSARY OF THE FOUNDATION  
OF THE SOCIETY, AND THE 250TH ANNIVERSARY OF  
THE SETTLEMENT OF NEW HAMPSHIRE.

(See page 33.)

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Just two hundred and fifty years have passed away since the first permanent settlement of New Hampshire by Europeans was begun. But long before that time, the harbors upon our coast had been familiar to the mariners who yearly ranged the shores of the new world for the spoils of the sea, and who made the acquaintance of the red men by bartering with them the trinkets of transatlantic workmanship for the rich furs which they captured in the forest. Thus the capabilities of the country lying near the coast, and the character and disposition of the native tribes, were well understood, and the first immigrants to New Hampshire were fully apprised of the privations and hardships which they were to encounter. They knew full well that the virgin treasures of the land were only to be won by those who combined the bodily vigor with the resolute will to brave the frosts of winter, and to endure unrepiningly the want of a thousand accustomed comforts, and the absence of friends and congenial society. But with this warning fully impressed upon their minds, they did not hesitate to cast their lot in the remote wilderness. They were attracted hither by the hope of bettering their fortunes, though to many of them the love of novelty and adventure was, doubtless, an additional incentive. The same motives have ever



since impelled the hardy pioneers of each successive generation of our countrymen to carry farther and still farther westward the woodman's axe that heads the march of emigration, until at length the broad expanse of the primeval forest is narrowing to a fringe, through which the beams of the declining sun can almost penetrate.

As was to be expected, our early colonists were men of action; in great part, hardy fishermen and lumberers. The waters and the forests, for many long years, yielded them their only resources, and purchased for them in foreign parts the necessaries and the scanty luxuries of which their imperfect agriculture and want of skill in the industrial arts left them destitute. It was not the place nor the life for drones or dreamers; men of thews and sinews, possessors of robust common sense, were the only class who could hold their own in such a campaign against the ever rallying forces of nature. And yet those stalwart pioneers, who abandoned the thousand endearments of social life in the old world, and carved out for themselves homes in the rudest depths of the wilderness, manifested qualities of character which we, in the full light of the present age, enjoying the fruits of a wider experience and higher cultivation, cannot but admire and be proud of.

Their sense of justice in all their dealings with the aboriginal inhabitants is evidenced by the friendly understanding on which they lived side by side with them for half a century, and until other parties and other interests aroused the hostility of the eastern tribes against the whole body of the white settlers. Circumstances, which need not be particularized here, have unfortunately caused the loss and destruction of the greater part of the records and documents of the primary period of the history of New Hampshire; but there is abundant evidence still surviving, to show that every rood of land occupied by the white men for a century after they sat down at Pascataquack, was fairly purchased from the Indian proprietors and honestly paid for.

The early occupants of this soil were singularly free from religious bigotry. The age they lived in was fruitful of dogmatism and persecution, but fortunately no fanatical zeal ever characterized our people. One division of the first permanent

company who planted themselves here belonged to the Church of England; yet non-conformist clergymen, in whatever standing with the ruling theology of the Massachusetts Bay, found no hindrance to their ministrations here, with one memorable exception,\* for which the people were in nowise responsible. And when New Hampshire had gravitated into substantial accord with the other colonies of New England in her theological views and church polity, it is pleasant to remember that despite the cruel intolerance of the time, no persecutions to the shedding of innocent blood were carried on in the name of religion on this soil. Neither Anabaptist nor Quaker was ever driven to give that crucial evidence of the steadfastness of his faith in New Hampshire. There has come down to us a tradition of a single instance of the infliction of violence in this province for heterodoxy, and that was under the law of Massachusetts; for New Hampshire, as a separate government, never authorized such a penalty. The punishment in that case was cut short by the interference of a person who afterwards made none too creditable a figure as a royal governor of New Hampshire.† But Walter Barefoote deserves to have that one act of mercy, so far in advance of his generation, set down to his credit, in characters of living light. And when the delusion concerning witchcraft, only a score of miles away, was hurrying men, eminent for their learning and piety, into the commission of the most deplorable and fatal errors, we recall with thankfulness the fact that in the few accusations for that offence which were prosecuted in this province, not one reached a tragical conclusion. On the other hand, the records inform us that, in 1669, Goodwife Walford, who had been traduced by the charge of being a witch, boldly brought her defamer into

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\* Gov. Edward Cranfield, in 1683, instituted a prosecution against Rev. Joshua Moodey, of Portsmouth, for refusing to administer the sacrament according to the mode of the Church of England, as required to do by the governor's order. But Cranfield was not sustained by the people, and at last became so obnoxious to them that he fairly abandoned the province.

1 *N. H. Provincial Papers*, 482, 585.

† In 1662, Richard Waldron ordered three Quaker women to be led at the cart's tail through New Hampshire and Massachusetts, out of the jurisdiction, and whipped in each town. Walter Barefoote, by a pious stratagem, obtained the custody of the women, in Salisbury, and saved them from further cruelty by sending them out of the province.

1 *N. H. Provincial Papers*, 243.



court to answer for the slanderous words, and actually succeeded in casting him in damages.\*

Another characteristic of the New Hampshire colonists was their resolute assertion and maintenance of their rights, against the encroachments of cupidity and power. Their trials were far from over, when the wilderness had been subjugated, homes constructed, and order established. New difficulties and dangers then menaced them, not less formidable than those which they had happily surmounted. They were threatened with absolute ruin in the loss of their homesteads and entire landed property. The heir of the original patentee of New Hampshire had now acquired such influence at the British court as to procure a separate administration to be set up for this province, with the avowed purpose of asserting and enforcing his title to all the lands embraced within its limits.

If we could put ourselves in the place of the dismayed inhabitants, we could form a conception how unjust and odious this claim appeared to them. They had heard of John Mason, the patentee, as the person to whom this territory had been granted, under the authority of the king of England, two generations before. The land they believed to have then been worthless, and to have cost him nothing, his object in procuring the title being the hope of profit by setting up fishing and trading posts under it, and by the discovery of precious metals. They understood that after considerable sums had been expended by the patentee, and by his widow after his decease, in establishing agents here and in exploring the country, without any adequate returns, the scheme was abandoned as a failure; and this when next to nothing had been done for the purpose of bringing the soil under cultivation, or promoting its occupancy, or otherwise making it of worth.

On the other hand, their fathers had purchased the lands they lived on from the native proprietors, when there was no other claimant to the ownership known, and had settled upon them in the honest and apparently well founded belief that their occupation could never be disturbed. They had erected commodious dwellings, and tamed the savage forest into arable

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\* 1 *N. H. Provincial Papers*, 219.

fields, by the expenditure of their own labor and means, and had thus given to the soil all the value which it possessed. The estates so improved and enriched had, in many cases, descended from father to son, or been sold and resold for a full and valuable consideration. Under these circumstances, for the occupants to be ousted from their hard-earned property by the descendant of the first grantee, with a mere paper title, and so little equitable claim of any kind, but especially to the betterments which represented the industry and skill of the colonists, would have seemed a bitter injustice, if done fairly and by due course of law. But when, to enforce his oppressive demand, the claimant was powerful enough to fill the chief offices of the province with interested partisans, and bring the trial of his ejectments before a packed and subservient jury, is it wonderful that the patience of men, whose all was at stake, became exhausted?

The final decision of the great test-suit between the representatives of the patentee and the representatives of the people\* has been made the subject of unmerited obloquy. The lawyer of our day, who reads the still existing records, will hesitate long to deny that the defence set up by the landholders was a legal and substantial one; and this irrespectively of the validity of the Wheelwright Indian deed of 1629, which added nothing to the strength of the defendant's case. If that instrument was forged, as has been broadly asserted, to be used as evidence in that suit, it was surely a very supererogatory piece of criminality. The claimant failed to establish his case by reason of the weakness of his own title, and not on account of the strength of that of his adversary. The steadfast resolution with which two successive panels of New Hampshire jurors, in defiance of the illegal restriction which the order of the British queen in council attempted to lay upon their powers, vindicated their constitutional prerogatives by their verdicts, was a fitting sequel to the proceedings, and strikingly exhibited the sturdy spirit of our fathers in upholding their birthright, and in resisting the demands of arbitrary power.

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\* The case of *Allen v. Waldron*, the record of which is given in full in 2 N. H. Provincial Papers, 514, *et seq.*

The spirit of liberty, which had always a place in the hearts of our New Hampshire fathers, was aroused as the crisis of resistance to the power of Great Britain drew nigh. It was not that our province had any special material grievance to complain of; on the contrary, our industries were little affected by any acts of the mother country. She had neither sent soldiers to overawe us, nor foreign or hostile officials to rule us. With a royal governor born and reared on our own soil, interested in the prosperity and happiness of the people, and, though faithful to his sovereign, a wise and friendly exponent of his will, New Hampshire made common cause with her sister colonies in opposition rather to the principles than to the practice of tyranny. But, her hand once put to the plow of resistance, she looked not back. One of the earliest armed outbreaks of the people to put down the royal authority was that of the patriots of New Hampshire, when they seized and carried away the arms and ammunition of Fort William and Mary, in the harbor of Piscataqua,\* to be used months afterward, against the forces of the king, in that battle which first gave them a wholesome respect for the prowess of the provincials. The first formal constitution adopted in the revolted colonies was that formed and approved by New Hampshire, on the fifth day of January, 1776. The earliest known suggestion on the subject of independence, by an organized body, is found in a letter written by order of the New Hampshire Convention, which was read in the Continental Congress, on the second day of June, 1775.† With what self-denial, courage, and constancy our state performed her part, and more than her part, in the memorable contest that gave to the coming millions of American citizens the birthright of freedom, the pages of history, unfortunately yet unwritten, we trust will one day fitly relate.

It was, in great part, to rescue from oblivion the memorials which still survived of our predecessors on this soil, and of what they effected during the first two centuries after its colonization, that the New Hampshire Historical Society was organ-

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\* December 14 and 15, 1774.

† Frothingham's *Rise of the Republic of the U. S.*, 421, 422.

ized fifty years ago. It was deemed fitting that so important an anniversary should be observed in some peculiarly memorable fashion; and, therefore, in addition to the literary and festive exercises usual on such occasions, an auspicious beginning was made of a permanent association for historical research;—a monument to the memory of our fathers which, we would fain believe, shall outlast the marble, and bearing inscriptions in their honor, which the lapse of ages shall never dim, but, rather, deepen and extend.

The original members of this society were thirty-one in number. We cannot, after the expiration of half a century, read over the list of their names without being profoundly impressed with a sense of their uncommon learning and ability. Some of them died in early life, and never acquired the honors that would later have been at their disposal; but the number of governors, senators, and representatives in congress, doctors of divinity and of laws, and historical writers of no ordinary repute, whom the residue of that little company furnished, is something surprising. It would be no easy task, at this day, to assemble, from the largest state in the union, an equal number of men of like eminence and promise, to engage in an enterprise of this character.

Of the primitive thirty-one, but a solitary individual\* survives to witness the fiftieth birthday of the society. Fortunate in the enjoyment of mental and bodily health, he has to-day afforded us auricular, if not ocular, demonstration that his venerable years have neither withered his sympathies nor obscured his powers. He is the connecting link between the infancy and the manhood of our society. We trust that time will long continue, as heretofore, to deal gently with this our last representative of the founders.

Of those who have been the most efficient supporters of the society, there are a few names that it would be inexcusable not to mention on this occasion.

William Plumer was one of the projectors, and the first president of the society. Endowed with a natural fondness for literary and antiquarian pursuits, he bestowed much atten-

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\* The venerable George Kent, Esquire, now of Washington, D. C.



tion upon them during a large portion of his long life. He collected a great number of documents relating to the state and the nation,—a work for which his long experience in high official positions, and his acquaintance with men of eminence and literary habits, gave him peculiar facilities. At the formation of the society he was past the prime of life, and in such slender health that he never visited the capital of the state after the occasion when he took the presidential chair. He contributed to the first volume of the society's published Collections, and made to the library a handsome donation of desirable books and manuscripts. He retained through life his interest in the society and its work; but his age and the state of his health inclined him to prefer that his son, William Plumer, Junior, should be the active representative of the name in the society. The latter had also been in public life, and possessed a cultivated literary taste. He was one of the publishing committee of the first two volumes of the Collections, and afterwards held the office of president. In 1853, he delivered the annual address, a production of much merit, which has recently found its way, somewhat irregularly, into print.

John Farmer, also an original member, was one of the pillars of our society. Fourteen years in succession he faithfully discharged the duties of corresponding secretary, and he was on the editorial board of four of the volumes of Collections, all of which contained articles from his pen, and one was wholly compiled by him. Mr. Farmer was one of those persons who seem endowed by nature with an aptitude for historical investigation. At an early age he had made himself widely known by his ardor and attainments in that line of study, and they literally grew with his growth. With bodily health so infirm, that, though a resident of the town where the meetings of the society were held, he was not able to attend them more than once or twice during the whole term of his membership, yet his performance of his official services by letter was punctiliously complete; and such were his industry, method, and absorbing devotion to historical and antiquarian studies, that he had accomplished an amount of pains-taking and conscientious work, when the frail thread of his life was broken in his forty-

ninth year, which any man might be proud to look back upon after a long lifetime of labor.

The name of Jacob Bailey Moore is naturally associated with that of Mr. Farmer, as they were colaborers in more than one literary and historical enterprise. Their tastes were in many ways congenial, but the firm health and the active and social temperament of Mr. Moore alike forbade him to fall into the secluded habits of his friend. He was the proprietor and editor of a political journal, and his employments led him to make repeated changes of residence, but his popular and genial manners insured him friends wherever he went. He was one of the planners and original members of the society, and served upon the publication committee of two of its volumes, and as librarian. While he continued an inhabitant of the state he rendered yeoman service to the society, and through life his best wishes always went with it. The articles from his pen occupy no small space in the Collections, and are uniformly marked by a spirit of candor, and by careful and thorough investigation.

Richard Bartlett was connected with the society from its inception, and officiated upon the standing committee, and the committee of publication of two of the volumes. He was immersed in active employment, as secretary of the state, a practising lawyer, and a journalist; but he was a warm and constant friend of the society, and lost no opportunity to further its designs and add to its means of usefulness. Almost the last work of his life was the preparation for the society of an elaborate paper on the preservation and keeping of public archives, embracing a great amount of information which he had diligently brought together, accompanied by his judicious comments, which was published in one of our volumes, and in a separate form. At his death, he bequeathed to the society his own library, embracing works of sterling worth, a portion of that of the late Nathaniel Peabody, of revolutionary note, together with a respectable collection of manuscript letters.

Samuel Dana Bell was one of those consulted with regard to the formation of the society, though he did not join it till it had been three years in operation. Throughout his life he habitually appropriated a share of his time to historical study, in addition to the constant performance of his professional and



official avocations. His interest in the society was earnest and unceasing. He held the office of president, and served in various other official capacities. He pronounced a carefully prepared annual address, and contributed papers, which bespoke his perfect familiarity with our early history, to the Collections. There came a period of business depression early in the society's existence, when its continuance was imperilled by serious pecuniary embarrassment. Without instant relief, the results of years of labor were liable to be undone. Mr. Bell assumed the pecuniary burden unaided, and carried it till the dawn of better times. It is not too much to say that but for his earnest friendship and constant coöperation, the society could never have attained its present position and repute.

Time will only permit me to make the briefest mention of other members who have contributed in an especial manner to the progress and fame of the society. Levi Woodbury, the occupant of many responsible official positions, state and national, who was the second president of the society, was deeply concerned in its purposes, and delivered a valuable annual discourse. Ichabod Bartlett, the eloquent adocate, in the foremost rank of the profession when the bar of New Hampshire was at its culmination, was the third president, and a contributor to the Collections. Next succeeded to the chair Salma Hale, an accomplished writer and scholar, and a pioneer in one department of school literature. His history of the United States was truly an educational classic, and long retained its estimation with the successive generations of the young, and, more singular still, was repeatedly republished abroad. Mr. Hale sympathized warmly with the objects of the society, and more than once lent his pen to its aid. Charles Humphrey Atherton, who worthily wore a name noted for three generations in our annals, was also numbered among the presiding officers. He was distinguished by his taste for letters and his habits of investigation, and his hand is repeatedly discernible in choice contributions to our printed volumes. Chandler Eastman Potter was also an occupant of the presidential chair, and earnestly solicitous for the welfare and standing of the society. He was a diligent laborer in the field of local history, and has laid an admirable foundation for the

compilation of our military annals. His acquaintance with the antiquities of our region, and the manners, language, and policy of the Indian tribes, was exceptionally full and accurate. John Kelly was for the first eight years recording secretary of the society, and in full and warm accord with its designs. He is known to antiquarian students by his numerous sketches, genealogical and biographical, of the early personages of the province, which, in addition to their fidelity to truth, were enriched with a genial humor none the less effective because sometimes wanting in that class of writings. Nathaniel Appleton Haven, Junior, the first corresponding secretary, and one of the projectors of the society, was a cultivated scholar, as well as an ardent student of history. The selection of Mr. Haven to prepare the address on the two hundredth anniversary of the settlement of New Hampshire was a deserved tribute to his gifts and attainments,—as was the assignment of the poem on the same occasion to Oliver William Bourne Peabody, a kindred spirit. Isaac Hill, one of the most vigorous and influential writers of his day, who cherished a regard for everything that promised advantage to the state, found time, in the busiest period of his active life, to serve upon the publishing committee of two of our volumes. Nathaniel Adams and Hosea Hildreth were the earliest members of the standing committee, and were both distinguished in the paths of historical letters. The “Book for New Hampshire Children,” composed by the latter, was long a favorite manual in our common schools, and if it were reissued, and brought up to our own times, would supply a real need in the present course of studies. The names of James Freeman Dana, Nathaniel Gookin Upham, Charles Burroughs, William Cogswell, and other deceased prominent officers and members, crowd upon my pen, and I regret that space does not permit me to allude to them further.

I forbear, for obvious reasons, to mention in this connection any persons now living. Were I at liberty to do so, it would appear that the most efficient friends and benefactors of our association are not all numbered with the dead. It will remain for some future chronicler to do justice to the historical attainments, liberality, and willing personal service of our present members, which have been happily instrumental in

placing the society in the prosperous and encouraging position which it to-day occupies.

The results which our society has accomplished, in a life of half a century, we may contemplate with a degree of satisfaction which should cheer us on to continued efforts. It is of course impossible to weigh or to measure the influence which it has exerted in behalf of the acquisition of thorough and exact historical information, not only among its members, but reflectively throughout the community; though there can be no question that this has been wide spread, and of lasting benefit. But there are visible and tangible fruits of its operations which demand a brief enumeration. The society has brought together a library of works for study and reference, for the furtherance of the objects of its constitution, consisting of more than six thousand bound volumes, and twice that number of pamphlets; beside a very considerable quantity of newspapers and manuscripts, Indian, provincial, and revolutionary relics and curiosities. These collections contain many works and objects which are rare, and some unique, bearing upon and illustrating the history of our country, and New Hampshire in particular. Their great value and local importance, and the utter hopelessness of even approximately replacing them in case of their destruction, have led to a determined and persistent effort, within a few years past, to put them within a secure shelter of which the society should be the proprietor. The exertions of several members having the interest of our society much at heart, among whom it is only just that our able and zealous corresponding secretary\* should receive special mention, were unsparingly bestowed upon this weighty undertaking. At length, by the generosity of our members, and of the sons of New Hampshire at home and abroad, the desirable object has been effected, by the purchase and adaptation of the handsome, commodious, and secure structure to which you have been so appropriately welcomed this day. The New Hampshire Historical Society is now a freeholder. And no longer are its doors to remain inhospitably closed, but the library and accumulations from this time forward are to be kept open and accessible to all who choose to visit them.

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\* Rev. Nathaniel Bouton, D. D.

The society has already issued eight substantial octavo volumes of historical collections, relating principally to New Hampshire, and comprising old public and private records, copies of scarce and out-of-the-way tracts, throwing light upon our early affairs, histories of towns, statistics, biographical sketches, and the like. A great part of this invaluable matter was prepared for the press upon the request of the society, and many of the materials would have been irretrievably lost had they not been preserved by the care and foresight of our associates. Nor have these publications been lightly regarded by those for whose use they were intended. They take rank with the best productions of their class. High prices have attested the estimation in which they are held, and the exhausted editions and continued demand for some of the series have compelled the society to reprint two of the volumes; a compliment which will have ere long to be paid to others. The materials for the continuance of these publications are not wanting, so much as the funds available for the purpose. They will soon be renewed, and will be found to decline neither in interest nor in value.

In view of the results thus briefly outlined, we have no cause to be ashamed of the manner in which our society has thus far fulfilled its mission, as set forth in the constitution,—“to discover, procure, and preserve whatever may relate to the natural, civil, literary, and ecclesiastical history of the United States, and of this state in particular.”

Our society has now passed the critical stage of its existence. It has encountered and mastered obstacles which, in the nature of things, can probably never present themselves again. The period when it was a novelty and an experiment is over; it is now a fixed institution, and an assured success. Its rare literary possessions, its proprietorship of a commodious hall, the roll of its members, the work it has executed, and the prestige it has acquired, are all proofs of its stability, and pledges of its future prosperity and usefulness.

The work which falls to its lot is of a nature which does not admit of completion. As long as to-morrow shall take the place of to-day, and to-day that of yesterday, so long are time's changes to be recorded, and so long will the demand for our



labors never cease. To gather the materials of history will always be one of our chief employments. We are not to be content with heaping our shelves with portly tomes, the works of toil and erudition. They may hold the places of honor, but they are at best but the echoes of the original speech of events. It is the fashion of our time not to take facts at second hand. The authority of even the greatest names is not implicitly accepted. Incredulous inquirers go behind every *ex cathedra dictum* to examine and weigh the evidence on which it is based. Old blunders are exposed; the estimation in which men and their acts were wont to be held is reconsidered, and the verdict of the historian is not unfrequently set aside. Those who assume to instruct the world, no longer dare to trust to the results of others' researches; they must needs go back to the original fountains of information. Every symmetrical storehouse of historical materials, therefore, must supplement the elaborate productions of the annalists with every attainable species of contemporaneous evidence.

There is literally no product of the press or of the pen that cannot be made tributary to the historian's purpose. The lightest bagatelle that springs from the fancy of an hour is as truly the material of history as the ponderous record, imposing in its dignified formality. It is true that, while the latter imports indisputable verity, the other may be obviously amplified to the last degree of exaggeration. Yet both alike convey the truth to him who reads them aright. Nay, the less pretending statement is not seldom more trustworthy than the stately manifesto which has been dressed up for the public eye. Our greatest national historian, when challenged for doing less than justice to some of the prominent characters of the Revolution, has rested his vindication not so much on the public official documents, as on contemporary unpublished memoranda, letters, plans, and chance allusions of eye-witnesses,—evidently believing that from such unvarnished expressions of the sentiment of the hour a juster opinion of the men and their conduct is to be formed than from more elaborate and sophisticated authorities.

While history is thus indebted for its truthfulness to the less pretending walks of literature, they have a special value in

imparting to it its picturesque and lifelike aspect. By the judicious chronicler, the brightest and most distinctive reflection of the times he delineates is often borrowed from the trifles which, in their day, were deemed of smallest note,—the artless relations of unlettered men, the freedoms and confidences of private correspondence, the quips and caricatures born of an idle whim. Not seldom furnishing the clue to nice discriminations of character, they are always faithful exemplars of the manners, and redolent of the genuine spirit, of their times. While the warp of history may be drawn from the starched and formal registers, its woof must be fashioned of slighter and more motley stuff, to bring out the quaint patterns and significant designs through which the true genius and character of the age look forth.

The vexatious experience of every one who has undertaken an exhaustive search for the literature pertaining to any subject has taught him that, while the elaborate works are comparatively easy to procure, the difficulty of the pursuit increases in proportion as the productions are trivial, slight in dimensions, and ephemeral in character ; broadsides and the like weaklings of the press being only obtainable after the most pertinacious chase. Few persons have any care to preserve the smaller memorials of things passed. Absorbed in the occupations of the day and the cares of the morrow, they abandon to their fate the exuviae of every event the moment it ceases to be uppermost in their attention.

It is not unfortunate for the cause of knowledge that there exist a small but not unobservant class in the community, who, from pure love to keep green the memory of the persons and things bygone, exercise a protecting care over the waifs which help to a just understanding and appreciation of them. Everything written, printed, pictorial or anywise descriptive, which falls in their way, they carefully preserve. Mementos, which have the flavor of unmistakable antiquity, are their chiefest trophies. But they do not disdain to store up the cast-off rubbish of to-day, because their discernment teaches them that it may become a valued memorial in another generation. But for the indefatigable industry of these thoughtful guardians of the abandoned bantlings of letters, historical



societies would be destitute of many of their most interesting accumulations, and the works of historians would lack much of the savor which gives them their piquancy and verisimilitude.

The materials which may be made available for the illustration of New Hampshire history, thus seen to be varied in their character, will be found to be confined to no narrow range. Our province in the early time was so closely associated with other divisions of New England, that whatever illumines the one, necessarily throws light upon the other. In later years our state history is, in like manner, interwoven with that of the country at large. The field for our gleaning is as broad as the boundless continent itself.

Our society has now its representatives so widely scattered, that none of the papers and documents, whether mouldering in the garrets of old mansions, promoted to the collections of tireless antiquaries, or preserved in some other eddy in time's ceaseless stream, which would contribute to the objects of our association, ought to be suffered to miss their way, sooner or later, to our archives. Among those whom interest or curiosity shall draw to our library, it will be strange indeed if some shall not be reminded, by the value we attach to the memorials of by-gone times, to rescue from their forgotten hiding-places historic materials, that would have else perished without a thought. Our fire-proof chambers can hardly fail to tempt the possessors of highly prized hereditary documents, anxious for some place of secure deposit and ready access, to intrust them to our custody. It is not to be forgotten that in our quest, as in all others, nothing is so successful as success. The possessor of ten profitable talents becomes naturally the centre to which all unimproved single talents tend.

But there are higher and more important duties devolving upon our society. We cannot shut our eyes to the fact that but a small proportion even of educated persons manifest an inclination for the studies of history, sufficient to induce them to borrow time for its gratification from their business or their amusements. And particularly is this noticeable in a small state like our own. It is not because of a natural indifference in men to a knowledge of the past;—all our observation of the

character of our race forbids such an inference. The desire for information, concerning the generations which have passed away, seems inherent in the human breast. In the earliest times and among unlettered tribes, the knowledge of antecedent events has always been kept alive by tradition; and as man advances in intelligence, his desire to learn is surely not lessened in any direction.

Observation also leads to the conclusion that it is oftener circumstances than the lack of interest which deter men from historical pursuits. It is not common to find a person of intelligence who has not treasured up some facts belonging to the domain of the past, though they be but of family interest or local curiosity. Perhaps he has learned to trace the successive steps of his descent from a Mayflower pilgrim; perhaps he can relate some act of prowess of an ancestor in the Revolution. Or he may point with excusable elation to the name of his first cisatlantic progenitor inscribed on the tattered title of an antique volume, or to the rude engraving of the figures of the chase or the skirmish, executed by a grandsire upon his powder-horn, to while away the tedium of garrison life in the French war.

No one who preserves these relics, with their attendant old-time lore, can be destitute of the historic faculty. The germ of the taste is in his constitution, and it only requires fostering circumstances to cause it to grow and bear fruit. However much cumbered by his cares or his merchandise such an one may be, if he is once brought within the influence of an organized association for historical work he will be attracted to its companionship, and in due time become a competent and useful helper.

Our society has outlived the too prevalent early notion that no one ought to be received into it who had not already achieved distinction. Membership is not regarded, at this day, a reward of merit, so much as an encouragement to exertion. The plan ought to be, to educate our members for our service. Aptitude is important; proficiency is desirable; but active men, in the prime of their powers, holding living relations to the body politic, are indispensable. They are the kind of recruits from whom our most useful veterans of the future are to be

fashioned. It is true that we may not find some of them the best adapted for certain dry details of our work ;—*non omnes omnia possumus*. But there are other duties to be performed, of equal consequence to the welfare of our organization, which they have the ability, and have abundantly proved their willingness, to undertake. The army of history, like military bodies in general, cannot conduct its campaigns without the sinews of war ; and to those of our associates, who give their energies to improve our material resources, belongs no secondary honor.

But the influence of our society should extend beyond the circle in immediate connection with it. It should give tone and direction to the great body beyond. Every project for the discovery and advancement of historical knowledge should receive its encouragement and earnest coöperation. Our people should look to it for instruction and aid in every useful undertaking, and it should never fail to warn them against schemes that are futile or absurd. It is alike our province to promote the publication of the state's invaluable records, and to ridicule the grasping credulity that digs for Kidd's buried treasure, or sets up heirship to a great English estate.

Especially should it be our aim to diffuse a knowledge of the history of our own state, and the biography of its people, as widely as possible in the community. Minute acquaintance with the subject is, of course, not to be expected ; but, among the major part of the people, even a general knowledge of New Hampshire's claims to distinction is far less common than it ought to be. New Hampshire is, indeed, one of the smallest divisions of the Union in territory and in population. Her stage of action is a narrow one : none of the great material interests of the country centre within her borders, and her political consequence is trifling. But she has a record to which she may point with pride. Her people have never been wanting in any of the great emergencies, when stout and patriotic hearts were the nation's hope and salvation. When the dusky warriors of the forest threatened the feeble settlements of New England with extermination ; when the mercenaries of the English king strove in vain to reduce our struggling country to vassalage ; when the strength of the Federal Union was tested by the bloody touchstone of civil war, New Hampshire was

alike ready, with her treasure and her blood, to bear her part for the general safety and honor.

It is not possible, nor would it be just, to estimate the achievements of our commonwealth by applying to them the narrow rule of state boundaries. She has given to her sister states and to the country her children, who have largely contributed to their prosperity and power. In every part of our land, from Maine to California, are the sons and daughters of New Hampshire sires to be found. It was no dislike to the land of their birth which impelled them to leave it. They never lose their attachment to their native hills, but always stand ready to reassemble round the homestead, the school-house, and the steeple of their childhood, proud and happy to answer to the roll-call of their parent state. An honorable ambition has led them abroad. In their adopted homes they have achieved their full proportion of the prizes of life. It is not too much to say that prosperity has been the rule with them. Not a few have won an honorable place in the world's regard in science and literature; an unusual share have attained high and influential official positions in other states and in the nation. But we claim them still for New Hampshire. When they went out from us, their places were not made good. All we can have in exchange for them is the honorable names they acquire. Are we to be entitled to no share of the credit which New Hampshire parentage, New Hampshire education, and New Hampshire principles have enabled our children to win on other soil? Are we to give up our claims to the glory of Webster, because the immortal productions of his riper years were uttered outside our territorial lines? Forbid it, Justice! forbid it, Historic Truth! The glory of our children is our glory. No just estimate of New Hampshire can be formed, with the achievements of her absent sons and daughters omitted from the reckoning.

The history of New Hampshire is yet waiting to be adequately written. In the pages of Belknap the provincial period is indeed sketched with a masterly hand; but no light is cast upon the occurrences of the century last past,—the most eventful era of her existence. Within that hundred years the yoke of foreign and monarchical government has been



thrown off; nine tenths of her territory has been settled; all her manufactures and communications established; her chief institutions of learning founded, and her literature written.

It is not the province of our society to write history. Nor need our state make any haste to obtain a historiographer. In the fulness of time he will come, with the state pride, the patient industry, the facile pen, the sound discrimination, and the devotion to truth which will adapt him to the task. And then the work which our society has executed will serve its destined office. Congenial spirits among our members will give him their sympathy and encouragement. The contents of our archives will yield him the amplest understanding of his theme. With a mightier magic than that of the tapestry of the Indian prince, they will transport him at a wish into the presence of former generations.

Brethren of the New Hampshire Historical Society: Each step of progress which our organization has taken renders the responsibility of maintaining it in the future more onerous. It has a character to sustain. Whatever increase of effort it may cost, while we remain the guardians of its fame, its onward march must never be suffered to flag, nor its star to be dimmed. Our motto must be,—*Nulla vestigia retrorsum*.

As we return to our homes after these commemorative exercises are over, let us not permit our occupations and cares to crowd the purposes and wants of our society from our remembrance. Whatever service we may be able to render to the cause of historical learning in general, should be ungrudgingly bestowed. But we should bear ever in mind that we are, in an especial degree, bound to promote and foster the interests of New Hampshire history. Everything that will contribute to dignify and adorn it we should cause to be inscribed on the tablets of perpetual remembrance. The good name of our state is the common heritage of ourselves and our children: be ours the grateful office, in our time, to keep it stainless before the world.

# NEW HAMPSHIRE.

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## A POEM.

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BY EDNA DEAN PROCTOR.

*(See page 33.)*

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“A goodly realm!” said Captain Smith,  
Scanning the coast by the Isles of Shoals,  
While the wind blew fair, as in Indian myth  
Blows the breeze from the Land of Souls :  
Blew from the marshes of Hampton spread  
Level and green that summer day,  
And over the brow of Great Boar’s Head,  
From the pines that stretched to the west away ;  
And sunset died on the rippling sea,  
Ere to the south, with the wind, sailed he.  
But he told the story in London streets,  
And again to court and Prince and King ;  
“A truce,” men cried, “to Virginia heats ;  
The North is the land of hope and spring !”  
And in sixteen hundred and twenty-three,  
For Dover meadows and Portsmouth river,  
Bold and earnest they crossed the sea,  
And the realm was theirs and ours forever !



Up from the floods of Piscataqua,  
Slowly, slowly, they made their way  
Back to the Merrimack's eager tide,  
Poured through its meadows rich and wide ;  
And the river that runs like a joyous brook—  
Monadnock's darling, the Contoocook ;—  
And westward turned for the warmer gales  
And the wealth of Connecticut's intervalles :  
And to Winnepesaukee's tranquil sea,  
Bosomed in hills and bright with isles  
Where the alder grows and the dark pine tree,  
And the tired wind sleeps and the sunlight smiles ;  
Up and on to the Mountains piled,  
Peak o'er peak, in the northern air,  
Home of streams and of winds that wild  
Torrent and tempest valeward bear,—  
Where the Great Stone Face looms changeless, calm,  
As the Sphinx that couches on Egypt's sands,  
And the fir and the sassafras yield their balm  
Sweet as the odors of Morning lands,—  
Where the eagle floats in the summer noon,  
While his comrade clouds drift, silent, by,  
And the waters fill with a mystic tune  
The fane the cliffs have built to the sky!  
And, beyond, to the woods where the huge moose browsed,  
And the dun deer drank at the rill unroused  
By hound or horn, and the partridge brood  
Was alone in the leafy solitude ;  
And the Lake where the beaver housed her young,  
And the loon's shrill cry from the border rung,  
The Lake whence the Beauteous River flows,  
Its fountains fed by Canadian snows.

What were the labors of Hercules  
To the toils of Heroes such as these?—  
Guarding their homes from Savage foes

Cruel as fiends in craft and scorn ;  
Felling the forest with mighty blows ;  
Planting the meadow plots with corn ;  
Hunting the hungry wolf to his lair ;  
Trapping the panther and prowling bear ;  
Bridging the river ; building the mill  
Where the stream had leapt at its frolic will ;  
Rearing, in faith by sorrow tried,  
The church and the school-house, side by side ;  
Fighting the French on the long frontier,  
From Louisburg, set in the sea's domains,  
To proud Quebec and the woods that hear  
Ohio glide to the sunset plains ;  
And when rest and comfort they yearned to see,  
Risking their all to be nobly free !

Honor and love for the valiant Dead !  
With reverent breath let their names be read,—  
Hiltons, Pepperells, Sullivans, Weares,  
Broad is the scroll the list that bears  
Of men as ardent and brave and true  
As ever land in its peril knew ;  
And women of pure and glowing lives,  
Meet to be heroes' mothers and wives !  
For not alone for the golden maize,  
And the fisher's spoils from the teeming bays,  
And the treasures of forest, and hill, and mine  
They gave their barks to the stormy brine,—  
Liberty, Learning, righteous Law  
Shone in the vision they dimly saw  
Of the Age to come and the Land to be ;  
And, looking to Heaven, fervently  
They labored and longed through the dawning gray  
For the blessed break of that larger day.

When the wail of Harvard in sore distress  
Came to their ears through the wilderness,—

Harvard, the hope of the Colonies twain,  
Planted with prayers by the lonely main—  
It was loyal, struggling Portsmouth town  
That sent this gracious message down :  
“Wishing our gratitude to prove,  
And the country and General Court to move  
For the infant College beset with fears,  
(Its loss an omen of ill would be!)  
We promise to pay it, for seven years,  
Sixty pounds sterling, an annual sum,  
Trusting that fuller aid will come ;”  
And the Court and the country heard their plea,  
And the sapling grew to the wide-boughed tree.  
And when a century had fled,  
And the War for Freedom thrilled with dread  
Yet welcome summons every home,—  
By the fire-lit hearth, 'neath the starry dome,  
They vowed that never their love should wane  
For the Holy Cause they burned to gain,  
Till right should rule, and the strife be done!  
List to the generous deed of one :—  
In the Revolution's darkest days  
The Legislature at Exeter met ;  
Money and men they fain would raise,  
And despair on every face was set  
As news of the army's need was read ;  
Then, in the hush, John Langdon said :  
“Three thousand dollars have I in gold ;  
For as much I will pledge the plate I hold ;  
Eighty casks of Tobago rum ;  
All is the country's. The time will come,  
If we conquer, when amply the debt she'll pay :  
If we fail, our property's worthless.” A ray  
Of hope cheered the gloom, while the Governor said :  
“For a regiment now, with Stark at its head!”  
And the boon we gained through the noble lender  
Was the Bennington Day and Burgoyne's Surrender.

Conflict over and weary quest,  
Hid in their hallowed graves they rest ;  
Nor the voice of love, nor the cannon's roar,  
Wins them to field or fireside more !  
Did the glory go from the hills with them ?  
Nay ! for the sons are true to the sires !  
And the gems they have set in our diadem  
Burn with as rare and brilliant fires ;  
And the woodland streams and the mountain airs  
Sing of the fathers' fame with theirs !  
One, in the shadow of lone Kearsarge,  
Nurtured for power, like the fabled charge  
Of the Gods, by Pelion's woody marge ;—  
So lofty his eloquence, stately his mien,  
That could he have walked the Olympian plain,  
The worshipping, wondering crowds had seen  
Jove descend o'er the feast to reign !  
And One, with a brow as Balder's fair,  
And his life the grandeur of love and peace ;—  
Easing the burdens the race must bear,  
Toiling for good he might not share,  
Till his white soul found its glad release !  
And One—a tall Corinthian column,  
Of the Temple of Justice prop and pride—  
The judge unstained, the patriot tried,  
Gone to the bar supernal, solemn,  
Nor left his peer by Themis' side !  
Ah ! when the Old World counts her Kings,  
And from splendor of castle and palace brings  
The dainty Lords her Monarchies mould,  
We'll turn to the hills and say, " Behold  
Webster and Greeley and Chase for three  
Princes of our Democracy ! "

Land of the cliff, the stream, the pine,  
Blessing and honor and peace be thine !

Still may thy giant mountains rise,  
Lifting their snows to the blue of June,  
And the south wind breathe its tenderest sighs  
Over thy fields in the harvest moon !  
And the river of rivers, Merrimack,  
Whose current never shall faint or lack  
While the lakes and the crystal springs remain,—  
Welcome the myriad brooks and rills  
Winding through meadows, leaping from hills  
To brim its banks for the waiting wheels  
That thrill and fly to its dash and roar  
Till the rocks are passed, and the sea-fog steals  
Over its tide by Newbury's shore !—  
For the river of rivers is Merrimack,  
Whether it foams with the mountain rain,  
Or toils in the mill-race, deep and black,  
Or, conqueror, rolls to the ocean plain !  
And still may the hill, the vale, the glen,  
Give thee the might of heroic men,  
And the grace of women pure and fair  
As the Mayflower's bloom when the woods are bare ;  
And Truth and Freedom aye find in thee  
Their surest warrant of victory !  
Land of fame and of high endeavor,  
Strength and glory be thine forever !



PROCEEDINGS  
OF THE  
NEW HAMPSHIRE HISTORICAL SOCIETY.

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ANNUAL MEETING.

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CONCORD, N. H., June 10, 1874.

The fifty-second annual meeting of the society was held at its library room, this day, at 11 o'clock A. M., the president in the chair.

The records of the last two quarterly meetings were read and approved.

The reports of the corresponding secretary, Rev. Dr. Bouton, the treasurer, Charles W. Sargent, the librarian, Samuel C. Eastman, the publishing committee, by Samuel C. Eastman, and the standing committee, by Joseph B. Walker, were severally presented and accepted.

The records of the Congregational church in Bridgewater, now extinct, transmitted by Rev. Silas Ketchum of Bristol, were received.

The following amendments to the constitution of the society, submitted at the last annual meeting by William B. Towne of Milford, were adopted, to wit:

Section 2 of article 2 of the constitution is amended so as to read,—  
“The society shall consist of resident, corresponding, honorary, and

life members. Resident members shall be persons residing in the state of New Hampshire, and corresponding and honorary members persons residing elsewhere. Any member may become a life member by the payment of fifty dollars, and shall ever thereafter be exempt from assessment. The money derived from life memberships shall be kept separate and apart from the other funds of the society, shall be denominated the 'Life Fund,' and the income thereof only expended.

Article 4 is amended so that the first two lines shall read,—  
"Each resident member shall pay"—

A committee was appointed to nominate officers and new members.

A letter from Rev. Silas Ketchum, of Bristol, was read, tendering to the society a large collection of school-books, upon condition that an alcove, or part of one, should be specially assigned to them, and that they should never be sold or exchanged.

On motion of Samuel C. Eastman,

*Resolved*, That the society gratefully accept the gift of the Rev. Silas Ketchum on the terms proposed by him, and that the corresponding secretary be directed to inform him of the acceptance, and convey to him the thanks of the society.

Mr. Towne, from the committee to nominate officers, reported as follows:

*President*—Charles H. Bell; *Vice-Presidents*—William L. Foster, Benjamin F. Prescott; *Corresponding Secretary*—Nathaniel Bouton; *Recording Secretary*—Amos Hadley; *Publishing Committee*—William L. Foster, John J. Bell, Samuel C. Eastman; *Standing Committee*—Joseph B. Walker, Ebenezer S. Towle, Enoch Gerrish; *Auditing Committee*—Abel Hutchins, John A. Harris; *Library Committee*—Joseph B. Walker, John J. Bell, Samuel C. Eastman; *Treasurer*—Charles W. Sargent; *Librarian*—Samuel C. Eastman.

The report was accepted, and the gentlemen nominated were elected.

Hon. George W. Nesmith tendered certain valuable newspapers, which, on motion of Hon. George G. Fogg, were accepted, with thanks to the donor.

On motion, it was voted to assess resident members \$3 for

the current year, and to allow them a copy of the seventh volume of the Provincial Papers on payment of \$2 additional, and honorary members a copy on the payment of \$2.

Adjourned till 2 o'clock P. M.

#### AFTERNOON SESSION.

The society met according to adjournment.

Mr. Towne, from the committee appointed to nominate new members, reported the following persons, who were unanimously elected :

#### RESIDENT MEMBERS.

Frank W. Hackett, William A. Pierce, Edward S. Ryder, of Portsmouth ; Elisha R. Brown, John R. Ham, Charles C. Hardy, Rev. Geo. B. Spalding, of Dover ; William G. Perry, Exeter ; John Albee, Newcastle ; John W. Simonds, Franklin ; Emery I. Randall, Great Falls ; Prof. E. W. Dimond, Hanover ; John H. George, Charles R. Corning, Abial Chandler, Allan H. Robinson, Frank H. Pierce, of Concord ; Joseph W. Robinson, Claremont ; Leonard W. Peabody, Henniker ; Buel C. Carter, Wolfeborough ; Sullivan D. Green, Berlin Falls ; William A. Wallace, Canaan ; J. G. Davis, D. D., Amherst.

#### CORRESPONDING MEMBERS.

Charles W. Tuttle, Robert M. Mason, Edmund F. Slafter, John Ward Dean, Edwin B. Haskell, of Boston ; Edmund Quincy, Dedham, Mass. ; Hon. Albert Fearing, Hingham, Mass. ; William L. Kingsley, New Haven, Ct.

#### HONORARY MEMBER.

Hon. Thomas C. Amory, Boston, Mass.

Hon. Levi Bartlett, of Warner, gave memorial sketches of the Bartlett family, and presented to the society sundry objects of antiquarian interest.

On motion of Joseph B. Walker, thanks were tendered Mr. Bartlett for his valuable and interesting sketch of the Bartlett family.

On motion of Rev. Dr. Bouton, the thanks of the society were returned to Mr. Bartlett for the presents made by him to the society.

On motion of Rev. Dr. Bouton, the thanks of the society

were presented to Samuel C. Eastman, Esq., for the valuable services rendered by him as librarian the past year.

Adjourned to meet this evening, at 7½ o'clock, at the City Hall.

#### EVENING SESSION.

The society met at the City Hall, according to adjournment.

The annual address, being "Reminiscences of Daniel Webster," was delivered by Hon. George W. Nesmith.

On motion of Hon. Moses Humphrey, the thanks of the society were tendered the speaker for his able and interesting address, and a copy of the same requested for deposit in the archives of the society.

The society then adjourned.

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#### QUARTERLY MEETING.

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CONCORD, N. H., Oct. 7, 1874.

A quarterly meeting was held in the Society's Building this day at eleven o'clock A. M.

Charles F. Stewart, of Concord, was chosen chairman.

J. Albee, Esq., read a paper on the early records of Newcastle.

On motion of Samuel C. Eastman, Esq., the thanks of the society were presented to Mr. Albee for his interesting and instructive paper, a copy of which was requested for deposit in the archives of the society.

It was also voted that Mr. Albee be allowed his expenses in attending this meeting of the society.

Adjourned.

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## QUARTERLY MEETING.

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CONCORD, N. H., March 17, 1875.

A quarterly meeting was held at the Council Chamber, in the State House, this day, at eleven o'clock A. M., the president in the chair.

Joseph B. Walker, Esq., made a verbal report respecting the fund for the support of a Librarian; and Rev. Dr. Bouton made additional statements upon the same subject.

On motion of Hon. W. H. Y. Hackett, the matter of providing ways and means for the society was recommitted to the committee hitherto having it in charge, with instructions to report at the next meeting.

The report of the committee appointed to correspond with Mr. Thomas C. Amory, of Boston, with the view of obtaining for the society the correspondence of Gen. Sullivan during the war of the revolution, was presented by Mr. Hackett, accompanied by a resolution authorizing the reply of Mr. Amory to be published under the direction of the committee.

The reply, which was a vindication of Gen. Sullivan from sundry aspersions contained in the tenth volume of Bancroft's History of the United States, was read, and, after remarks made by Mr. Amory, signifying that at some future time the society would be made the depositary of the Sullivan correspondence, was ordered to be published in accordance with the terms of the resolution reported by the committee.

Mr. Hackett, from the committee appointed to confer with Arthur Livermore for the purpose of procuring for the society any letters from Maj. Robert Rogers that he may be disposed to donate, and to confer with Robert M. Mason with the view of obtaining that part of the correspondence between Jeremiah Mason and Daniel Webster relating to the case of Dartmouth college, made a report, with accompanying letters.



The report was accepted, and the accompanying letters were laid upon the table.

Mr. George E. Emery, of Exeter, read a paper on the origin of the name "Kearsarge."

On motion, the thanks of the society were presented to Mr. Emery for his interesting and instructive paper, and he was requested to deposit a copy of the same in the archives of the society.

The society then adjourned.

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## ANNUAL MEETING.

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CONCORD, N. H., June 9, 1875.

The fifty-third annual meeting of the society was held at its library room this day, at eleven o'clock A. M., the president in the chair.

The president called the attention of the society to sundry allegations against Gen. John Sullivan contained in the tenth volume of Bancroft's History of the United States; whereupon the society authorized the appointment of Messrs. W. H. Y. Hackett, Nathaniel Bouton, Joseph B. Walker, John Elwyn, Jonathan E. Sargent, and Charles H. Bell as a committee to investigate the said allegations, and report upon the same.

Hon. George W. Nesmith made remarks in vindication of Gen. Sullivan, and urged a refutation of certain aspersions contained in the ninth volume of Bancroft's History.

The records of the last annual meeting, and of the quarterly meetings of the past year, were read by the recording secretary, and approved.

The report of the corresponding secretary, Rev. Dr. Bouton, was presented and accepted. The report was accompanied by letters, as follows: From J. Albee, of Washington, D. C., and from U. S. Senator A. H. Cragin, in relation to two

manuscript volumes concerning New Hampshire in the congressional library, the latter offering to procure copies free of expense to the society; from Henry Stevens, Esq., of London, concerning papers which he had found in that city relating to New Hampshire; from Dr. Elwyn, of Philadelphia, enclosing a paper of ancient date, pertaining to the Vermont Controversy; from Dr. William Prescott, of Concord, in relation to a Dictionary of Proper Names, upon which he had been for some time engaged; and from William C. Thompson, of Worcester, Mass., in relation to the better preservation of town records.

On motion of Judge Nesmith, the thanks of the society were presented to Messrs. Charles H. Bell, William H. Y. Hackett, Thomas C. Amory, Joseph B. Walker, Samuel C. Eastman, Nathaniel White, George G. Fogg, William B. Towne, and Simeon Abbot, donors of a portrait of Dudley Leavitt, the New Hampshire Almanac Maker.

The report of the standing committee was presented by Mr. Joseph B. Walker, accompanied by a statement that the committee had examined the accounts of the late treasurer, Charles W. Sargent, and found them correctly kept.

The report was accepted and adopted.

On motion of Mr. William B. Towne, the chairman of the standing committee was authorized to settle the accounts of the late treasurer with the administrator of his estate, and to turn over the amount found due the society to the treasurer this day to be elected.

The reports of Mr. Samuel C. Eastman, as librarian, and in behalf of the publishing committee, were, in the absence of Mr. Eastman, presented by Mr. William K. Bartlett, and were accepted and adopted.

Mr. William B. Towne remarked upon the life and character of Hon. Albert Fearing, of Hingham, Mass., an honorary member of the society, recently deceased, and urged the desirableness of some system whereby biographical memoirs of deceased members might be regularly prepared and laid before the society.

On motion of Rev. Dr. Bouton, it was voted that the sub-

scriptions to the N. H. Historical Society Building be copied into the records, and that the originals be placed on file in the archives of the society.

After discussion as to ways and means, particularly in relation to the fund for the support of a librarian, it was voted, on motion of Mr. J. B. Walker, that the subject of keeping the library open be referred to the Committee on Life Membership.

On motion of Mr. Towne, Mr. Walker was added to said committee.

Committees were appointed to nominate officers and new members.

Adjourned to meet this afternoon at 2 o'clock.

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#### AFTERNOON SESSION.

The society met according to adjournment.

Hon. Sylvester Dana, from the committee appointed to nominate officers, reported as follows:

*President*—Charles H. Bell; *Vice-Presidents*—Benjamin F. Prescott, Jonathan E. Sargent; *Corresponding Secretary*—Nathaniel Bouton; *Recording Secretary*—Amos Hadley; *Publishing Committee*—William L. Foster, John J. Bell, William B. Towne; *Standing Committee*—Joseph B. Walker, Ebenezer S. Towle, Enoch Gerrish; *Auditing Committee*—Woodbridge Odlin, Joseph C. A. Hill; *Library Committee*—Joseph B. Walker, John J. Bell, Samuel C. Eastman; *Treasurer*—Samuel S. Kimball; *Librarian*—Samuel C. Eastman.

The report was accepted, and the gentlemen therein nominated were elected to the offices for which they were designated.

The president, from the committee appointed to investigate and report upon allegations against Gen. John Sullivan, contained in the tenth volume of Bancroft's History of the United States, presented a report in vindication of Gen. Sullivan, which was accepted and adopted.

On motion of Mr. Towne, the matter of publishing the report was referred to the Publishing Committee.

Hon. George G. Fogg, from the committee appointed to nominate new members, reported the following persons, who were unanimously elected :

#### RESIDENT MEMBERS.

Samuel N. Ide, George L. Balcom, John L. Farwell, of Claremont; Robert A. Benton, Arthur Fletcher, John W. Robinson, Daniel F. Secomb, Rev. M. W. Prince, Samuel S. Kimball, of Concord; Moses D. Page, George Fred. Gray, of Dover; George E. Emery, Amos Tuck, Albert C. Perkins, of Exeter; Amos J. Blake, John M. Parker, of Fitzwilliam; Warren F. Daniell, Moses B. Goodwin, of Franklin; Rev. James Haughton, Elihu T. Quimby, of Hanover; A. H. Cragin, Lebanon; George A. Bingham, Littleton; Rev. Luther B. Pert, Londonderry; Person C. Cheney, Manchester; Albert S. Scott, Peterborough; Charles A. Jewell, Plymouth; Frank Jones, Rev. James DeNormandie, Portsmouth; George A. Whitney, Rindge; Josiah G. Dearborn, Weare.

#### CORRESPONDING MEMBERS.

John S. Jenness, Hon. Charles A. Peabody, New York; Hon. Peter Harvey, Boston; Rev. Augustus Woodbury, Providence, R. I.; Rear-Admiral Henry K. Thatcher, Winchester, Mass.; Rev. Samuel J. Spaulding, Newburyport, Mass.; James W. Savage, Omaha, Nebraska; Alfred Landham, Montreal.

On motion of Rev. Dr. Bouton, the thanks of the society were presented to Senator Cragin for his generous offer to furnish a copy of manuscript records relating to New Hampshire, now in the library of the United States; and it was voted that his offer be accepted.

On motion of Mr. Joseph B. Walker, it was voted that a tax of three dollars be hereby levied upon each member of the society for the year 1875-6, and that any member paying two dollars in addition to his tax shall be entitled to the eighth volume of the Provincial Records.

On motion of Mr. Walker, Joseph C. A. Hill was added to the Committee on the Life Membership Fund.

The society adjourned to meet at the City Hall, this evening, at 7½ o'clock.

## EVENING SESSION.

The society met, according to adjournment, in the City Hall, Hon. Jonathan E. Sargent, one of the Vice-Presidents, in the chair.

Hon. Sylvester Dana was appointed recording secretary *pro tempore*.

Charles C. Coffin, Esq., of Boston, delivered an address on "New Hampshire in the Revolution."

On motion, the thanks of the society were presented to Mr. Coffin for his able and interesting address, and a copy of the same was requested for deposit in the archives of the society.

On motion of Joseph B. Walker, the letter of William C. Thompson, Esq., this day read to the society, was referred to a committee consisting of Messrs. Jona. E. Sargent, Wm. L. Foster, and Daniel F. Secomb.

Benjamin A. Kimball, of Concord, was elected a resident member of the society.

Adjourned.



## GENERAL JOHN SULLIVAN.

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At the annual meeting of the New Hampshire Historical Society, held in Concord on the ninth day of June, 1875, the committee appointed to inquire into the justice of certain allegations contained in the tenth volume of Bancroft's History of the United States concerning Major General John Sullivan of New Hampshire, submitted the following report, which being read, was accepted and adopted by the society.

### REPORT.

The allegations of Mr. Bancroft are found in the tenth volume of his history, on page 452, where he says,—“With the aid of Sullivan of New Hampshire, who was in the pay of France, instructions such as Vergennes might have drafted were first agreed upon;”—and on page 502, where these words are used: “That New Hampshire abandoned the claim to the fisheries was due to Sullivan, who at the time was a pensioner of Luzerne.”

This language imports nothing less than that Gen. Sullivan, then a delegate from New Hampshire in the Continental Congress, betrayed the interests of his state and country for a bribe from the agents of France. It is an accusation of the gravest character, brought now for the first time against a revolutionary patriot of conspicuous position and hitherto unsuspected purity, and in a work assuming to be of the highest authority. Every one of these considerations demands that to justify such an arraignment nothing less than complete, unimpeachable proof of its truth should be forthcoming.

Mr. Bancroft, upon the request of the descendants of Gen. Sullivan, has produced the evidence on which he bases his assertion. It is a despatch from the Chevalier de la Luzerne,

the French ambassador at Philadelphia, to the Count de Vergennes, the minister of Foreign Affairs of the King of France, and its meaning will be considered in another part of this report.

But it is proper first to remark that the charge of Mr. Bancroft derives no credibility from the action of Gen. Sullivan in congress, on the occasion alluded to in the two passages cited.

The question what terms should be insisted on by this country in making peace with Great Britain, was repeatedly before congress, and received various decisions. But long before Gen. Sullivan, after his military service, was returned as a delegate, it had been determined that the only *indispensable* condition was, the recognition of our national independence. At the same time no American envoys, entrusted with the responsible duty of negotiating a treaty, could have been insensible to the importance of the questions of boundaries, the common right of fishery, and the navigation of the Mississippi, in which the various sections of our country were so vitally interested.

As early as the beginning of 1781, France was weary of the war. She had engaged to make no peace with Great Britain without the independence of America being secured, but she had not pledged herself to continue the contest for the purpose of gaining further advantages to her ally. She naturally wished that the instructions of congress to our commissioners for negotiating a peace should contain no ultimatum except the recognition of our independence. Her ministers declared this to congress in plain language, and there was no disposition among the most of the delegates to gainsay her wishes. The suspicions of the motives of France which prevailed afterwards among our commissioners abroad had not yet arisen here; the country was animated by feelings of gratitude to our allies, and congress reflected the sentiments of the country. It is easy, therefore, to account for the influence which the French minister exerted on that body, without resorting to the revolting suspicion of bribery.

On the subjects of the fisheries, and of the instructions to our commissioners, a great majority of the delegates voted with Sullivan,—only three or four of the states dissenting. The vote

of New Hampshire was not given by Sullivan alone ; he only shared the responsibility with his sole colleague, Mr. Livermore, a gentlemen whose integrity, ability, and independence forbid the belief that he could have been influenced by Sullivan, wittingly or unwittingly, to be false to his trust.

The reason which the majority assigned for their action was, that other restrictions upon our commissioners might have been fatal to the accomplishment of peace ; that the disposition of France was favorable to us ; and that the interests of our country being committed to John Adams, Benjamin Franklin, John Jay, Thomas Jefferson, and Henry Laurens, among the ablest of our patriots, familiar with the wants and hopes of the country, every attainable advantage would be secured. And the issue of the negotiations bore out their views. The commissioners did obtain for us all that had been claimed, in our days of greatest confidence.

The fact, then, that Gen. Sullivan acted with the majority in congress in reference to the conditions of peace, affords no possible ground for the imputation that he was improperly influenced by agents of France.

This leaves the charge of Mr. Bancroft to rest upon the authority of Luzerne's despatch alone. The following is a translation of that paper into English, only a few paragraphs relating to other subjects being omitted.\*

PHILADELPHIA, May 13, 1781.

MY LORD,—When the letter-mail from Philadelphia was intercepted last year, and the English printed some of the letters, I noticed one from a Delegate who complained of the pecuniary straits in which he was kept by his State, and the dearth of all the necessaries of life in Philadelphia. Of this I had the honor of sending you a translation. From that time it seemed necessary that I should open my purse for a Delegate whose needs were made known to the enemy by his own confession, and in the guise of a loan I sent him sixty-eight guineas and

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\* Since this report was presented, a circular has been issued in the name of the publishers of Mr. Bancroft, and presumably sanctioned by himself, in which the despatch of Luzerne is given, differing slightly (by reason of clerical errors, as we are informed) from the version before published. In printing the report, Mr. Bancroft's translation has been followed, as perhaps sufficiently correct for the present purpose, although it is not thought to convey the exact sense of the original in all particulars.

four sevenths. The interception of a second mail put the English in possession of a letter addressed to him by the Treasurer of his State; and this also they printed. This, too, treated of pecuniary necessities. General Clinton suspected that a man so pressed for money could be easily corrupted, and as his brother was a prisoner in New York, he permitted the latter to go to Philadelphia on the pretext of negotiating his exchange. The Delegate sought me, and told me in confidence that his brother had brought him a letter, unsigned, but which he knew by the handwriting to have been written by an English colonel then in New York. "The writer of this letter," he said to me, "after dwelling on the resources of England, and the means which she possesses for ultimately subjugating America, compliments me warmly on my intelligence, my talents, and the high esteem in which the English hold me." He added, "that they regard me as the fittest man to negotiate a reconciliation between the mother country and the English colonies; that they wish me to make known my sentiments on this subject; that all overtures on my part will be received with the consideration which they deserve; that I have only to state my wishes; that the person who wrote to me was fully empowered to open a special negotiation with me, and that I may count upon the profoundest secrecy.

"I made answer to my brother with all the indignation that such propositions aroused in me; I threw the letter in the fire before his face, and when he started for New York I begged him to let those who sent him understand that their overtures had been received with the deepest scorn. Yet I have preserved silence about this matter toward Congress, partly in order not to compromise my brother, partly in order not to make a parade of my own disinterestedness, and partly because I thought it hazardous to announce with too much positiveness to my colleagues that the enemy was seeking a traitor among us, and that his reward was ready. But I thought I ought to confide to you these particulars, in order to put you on your guard against the enemy's intrigues, even in the very bosom of Congress; for if they have dared to make such offers to me, whose attachment to the good cause is so generally known, it is only too possible that they have done the same to others who have not apprised you of it."

This confidential communication seemed to me to be true, in the main; but I was not quite convinced that this Delegate had charged his brother to carry to New York a message so haughty and so insulting to the English as that which he had repeated to me. He made me a very strange proposition,—to pretend to lend an ear to the overtures that had been made to him, and to send a trusty man to New York to ask of General Clinton a plan of reconciliation; adding that he had been unwilling to use his brother's services, fearing his attachment to the cause



of independence. "I see," he told me, "many advantages in thus sounding the disposition of the English, in order to find out what their scheme of corruption may be, and to learn how far they intend to go in their concessions,"—and he named to me four members of Congress, to whom he proposed to confide his project before putting it into execution,—all of them being men of established integrity. This Delegate himself enjoys an excellent reputation, and I am very unwilling to suspect that he meant to make me a cloak for a correspondence with the enemy; but he has so often told me of the losses that the Revolution has occasioned him, and so bitterly regretted his former condition of ease and comfort, that I could not help dreading for him the temptation which he would encounter; and I did not hesitate to dissuade him from the enterprise, by clearly pointing out the great evils that it would entail. He did not promise me, formally, to abandon it; but if, notwithstanding the representations which I intend to reiterate to him, he persists in it, I shall so narrowly watch his conduct that I shall hope to discover whatever may be ambiguous in it. Moreover, I have constantly encouraged him to be very confiding; and to him I always attribute the rupture of the league formed by the Eastern States,—a league which, by false notions of popularity and of liberty, and by excessive jealousy of the army and the general-in-chief, has long obstructed the most necessary measures, and which on many occasions has shown itself jealous at once of our interests and of our influence. In his own State he is highly esteemed; he enjoys the credit of determining it to declare for independence in 1776. It is the only State which has not yet fixed its form of government, and, since this delay has been productive of evil, and permits ill-disposed persons still to hope for the reëstablishment of the English government, he has promised me that on his return he will use his influence with the people to induce them to adopt a constitution. I know not how much longer he will remain in Congress; but I thought you would not disapprove my offer to continue to him every six months the loan that I made him last year, so long as he shall remain a Delegate, and my proposition has been very gratefully received. In any event it is interesting to keep an eye on him. It is unfortunate that many other Delegates are in situations even still more necessitous. Some from the South, whose States are occupied by the enemy, have no other resources than the receipt of a bounty from Congress for their subsistence, and this bounty is so small that one of them, who was formerly governor of Georgia, is compelled to withdraw his wife from society, for the want of clothing in which she could respectably appear.

This attempt of the English gave me a chance to ask this Delegate whom they approached, if his long experience in Congress, and his



colleagues' manner of voting, had led him to suspect any of them of corruption. He indicated the person against whom I had formerly cherished suspicions, and another whose character seemed to him equally suspicious; but with these two exceptions he thought that Congress was composed of gentlemen of steadfast character, and inaccessible to corrupt approaches.

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I will await your orders, my Lord, to carry the advances spoken of in this despatch to my account of extraordinary expenses.

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I am, &c., &c., (signed)

LE CH. DE LA LUZERNE.

The Delegate spoken of at the beginning of this despatch, my Lord, is General Sullivan, who represents the State of New Hampshire in Congress.

Plainly the first thing to get at is the *purpose* of this multifarious communication. It could not be to announce that Gen. Sullivan had been "pensioned" by the writer, or received into "the pay of France." If that had been the meaning, what need of so much irrelevant matter? Surely there was no occasion to beat about the bush in a private communication between the French envoy and his official chief. Luzerne had only to say,—“For three hundred dollars I have bought, to do our bidding, a delegate in congress, late a major-general in the army, and now a member of the principal committees,”—and the brevity of the epistle would have needed no apology, in consideration of the satisfactory nature of its contents; that is, if it was any part of the policy of the French Government to corrupt the leaders of their allies, which, both on account of the moral effect of the transaction if discovered or suspected, and because of its needlessness in the state of public feeling then subsisting, may well be doubted.

But it is clear that the despatch was not intended to convey that idea. Nowhere in it is there one word to indicate that Gen. Sullivan had agreed, or was expected, to do more than his duty for France, or less than his duty for America.

In our opinion the despatch admits of one very simple and natural explanation, and of no other. Luzerne, generous in relieving the distresses of the American soldiery, had with like

liberality opened his purse for the assistance of a distinguished delegate in congress, whose needy condition was accidentally made public. Of course he expected to be reimbursed in a reasonable time. But months had gone on, and such was the scarcity of money that Gen. Sullivan was unable, either from his property at home, from the continental treasury which was considerably indebted to him, or from his state which was entirely in arrear with his salary, to obtain the means to repay the advance. Luzerne had reason to believe that France would scruple to assume no reasonable expenditures made for the benefit of the United States, if only the occasion was of sufficient consequence to warrant them. His despatch was obviously written, therefore, to induce the French government to allow him to charge to the public account the money which he had lent to Gen. Sullivan, not because it had been applied for purposes of corruption, but simply because he feared that otherwise he should be compelled to lose it from his own pocket.

Hence the burden of his letter is, that Sullivan, in his known destitute condition, was in danger of being suborned by the British. To heighten the effect of the suggestion, he introduces the statement from Sullivan of approaches which had already been made him, from an English officer in New York, which statement, by the way, heard through the medium of a foreign tongue, and reproduced in the French manner, will hardly be taken as literally exact. The acute Frenchman would readily discern that his claim to be reimbursed from the treasury of his king would be all the more plausible, if an expectation of that kind had been entertained from the start. This would account for the adroit manner in which he describes his advance to Sullivan as made "in the guise of a loan," and mentions that he had made to him "the offer to continue every six months the loan that he made him last year, so long as he should remain a delegate, which proposition was very gratefully received." All this was excellently calculated to persuade Luzerne's superiors to direct the money advanced to Sullivan to be included with the other manifold payments which France was daily making on account of her American allies, and there seems to be no other purpose for which the

letter could have been reasonably designed. It is in accordance with this view of the matter too, that Luzerne nowhere states that Sullivan understood that the money which he received, or which was subsequently offered him, was other than the private property of Luzerne, and to be repaid to him as such; nor that Sullivan knew that it was sought to be charged to the public account, or that the transaction was disclosed to Vergennes or to any other person. And it is proper to add, that it is not pretended that any further advance was ever made; that no evidence has appeared that the one in question was actually defrayed from the French treasury; and nothing to show that it was not subsequently repaid to Luzerne by Sullivan.\*

If the despatch contains even a reasonable implication that Gen. Sullivan received or retained as a bribe the money he had from Luzerne, your committee are unable to perceive it, and it must be of too indirect and vague a character to justify the odious charge of venality.

Perhaps this subject ought not to be dismissed without an allusion to the character of the persons inculpated by Mr. Bancroft's assertions.

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\* In the circular alluded to in the former note, it appears for the first time that the Cabinet of Versailles made a reply to the despatch of Luzerne. Mr. Bancroft, when applied to by the descendants of Gen. Sullivan for the grounds of his statement respecting their ancestor, wrote (see Circular, pp. 2, 3),—"My authority for this statement was a circumstantial report made to Vergennes by Luzerne himself." He did not hint at a reply to that report; nor, we are assured, did he lay before the copyist employed by Sullivan's descendants to transcribe his "authority," the reply, or any part of it. Why he kept it back, if he considered it of any importance, every one must form his own opinion. The Circular gives the following extract from the reply.

*From the Cabinet of Versailles to M. de la Luzerne.*

(Extract.)

27 July, 1781.

I cannot but approve, Monsieur, the pecuniary assistance you have rendered to General Sullivan. You may continue it to him as long as he shall sit in Congress, and you will carry the amount to the account of your extraordinary expenses, avoiding the mention of his name.

This "extract" simply indicates that Luzerne *had leave* to charge the loan already made to the public account, and to make Gen. Sullivan further specified advances on the same account. But it nowhere appears that Luzerne was in fact under the necessity of resorting to the French treasury for reimbursement of the loan,—while the expiration of Gen. Sullivan's term of service in congress, and his return to New Hampshire, preclude the idea of his receiving any further advance. But the really important thing of all is, that there is no syllable of evidence in the despatch or the reply that Sullivan ever knew or suspected that the fact of the loan from Luzerne was made known to Vergennes, or that such a thing as transferring it to the French treasury was ever thought of. So far as Sullivan is concerned, the correspondence between the Frenchmen was absolutely *res inter alios acta*.

M. de la Luzerne has uniformly borne the character of a man of honor. When Benedict Arnold, some months before the time in question, went to him with a proposal to sell himself to the service of the French king, Luzerne, while uttering a courteous refusal, did not disguise the feeling of aversion he entertained for such a transaction. His conduct while an envoy to this country was such as to call forth from congress flattering expressions of esteem after the peace, and from Washington, through Jefferson as secretary of state, a handsome acknowledgment of his services, in behalf of the nation after the organization of the federal government. The French minister could hardly have been guilty of corrupting prominent members of congress without some whisper of the fact being borne to the ears of at least the commander-in-chief and first president; and we cannot imagine our Washington directing a laudatory message to an ambassador who lay under the faintest suspicion of so abusing his high trust.

Gen. Sullivan had faults, no doubt, but they were the farthest from falsehood and venality. History has never assailed his probity; and tradition, which in his native state has handed down his characteristics with apparent fidelity, uniformly represents him as of scrupulous integrity. His fellow-citizens, who ought to have judged him correctly, loaded him with offices of high trust after the war; and Washington, who knew and chided his real failings, had so implicit a reliance on his honor and uprightness, that he appointed him to the position of United States judge for the district of New Hampshire, which he held till his death.

A circumstance which occurred in the early part of 1781, a few months after Luzerne made the loan to Sullivan, ought to have a strong bearing on the question under consideration. The Pennsylvania troops had revolted, and were in a state of insurrection, and Sullivan was appointed chairman of a committee of congress to bring them back to their allegiance. The British general, hearing of the mutiny, despatched messengers to the troops to entice them to desert to the royal standard; but the Pennsylvanians, true to their country even when they believed she had wronged them, voluntarily turned over the emissaries to the committee of congress to be dealt with as



spies. Sullivan wrote an account of the matter to Luzerne, in these words :

“One circumstance ought not to be omitted, which, in my judgment, does the insurgents much honor. When they delivered up the British emissaries, Gov. Reed offered them one hundred golden guineas, which they refused, saying that what they did was only a duty they owed to their country, and that they neither wanted nor would receive any reward but the approbation of that country for which they had so often fought and bled.”

It is absolutely incredible that a man in the position of Sullivan, if *he* had just been receiving the wages of iniquity for being faithless to his country, could address such language to his partner in the dishonor.

John Sullivan has now lain in an honored grave for the greater part of a century, every year of which furnishes an additional presumption against the truth of an accusation which no man ventured to make to his living face. If we are now called upon to credit the utterly improbable story that he bartered his honor and his country for a paltry sum of money, it can only be on evidence unmistakable, abundant, and conclusive.

In the judgment of your committee, the allegations of Mr. Bancroft impugning the integrity of Gen. Sullivan are unsupported by the evidence, and are unworthy of credence ; and justice to the memory of Gen. Sullivan, to say nothing of a regard for his own accuracy and fairness as a historian, calls upon Mr. Bancroft to retract the offensive charge without delay.

CHARLES H. BELL.  
W. H. Y. HACKETT.  
J. EVERETT SARGENT.  
N. BOUTON.  
J. B. WALKER.  
JOHN ELWYN.



## ANNUAL MEETING.

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CONCORD, N. H., June 14, 1876.

The fifty-fourth annual meeting of the society was held in its library room this day, at eleven o'clock A. M., the president in the chair.

The reading of the record of the last meeting was dispensed with.

The report of the corresponding secretary, Rev. Dr. Bouton, that of the treasurer, Mr. Samuel S. Kimball, and that of the librarian, Mr. Samuel C. Eastman, were severally read and accepted.

Mr. Joseph B. Walker made a verbal report from the standing committee, and recommended the passage of a vote directing the standing committee, so far as the funds of the society will admit, to procure the binding of the newspapers belonging to the society yet unbound, and to procure suitable shelves for their accommodation in the room of the librarian. The report was accepted, and the vote passed.

Committees were appointed to nominate officers and new members.

The president addressed the society respecting the manuscript papers of Daniel Webster presented to the society by Hon. Peter Harvey, of Boston.

Mr. Harvey also addressed the society, giving interesting reminiscences of Mr. Webster.

Mr. J. J. Bell offered the following resolutions, which, having been seconded by Judge Nesmith, who suggested the desirableness of early publishing a volume of the Webster correspondence, were unanimously adopted :

*Resolved by the New Hampshire Historical Society :—*

1. That they assure the Hon. Peter Harvey of their deep and lasting gratitude for his priceless donation of the manuscripts of the illustrious statesman, orator, and patriot, whose fame, though national, must ever be peculiarly dear to every citizen of this state.

2. That they accept these memorials of Daniel Webster, with a due sense of the great value and importance which they will always possess; that they engage to preserve them carefully and securely, and to conform to such regulations respecting them as shall meet the approval of the donor.

3. That the gift is rendered peculiarly interesting and acceptable, as it comes from the trusted and intimate friend of Webster during the most distinguished period of his public career, and as it expresses his confidence in the permanence and character of the society.

4. That, until otherwise ordered, the WEBSTER PAPERS shall be kept at all times in the fire-proof vault, and shall be open to inspection only in the presence of the librarian or his assistant, and upon a special written application, approved in writing by the president or one of the vice-presidents and a majority of the standing committee, which application and approval shall be preserved in the files of the society.

5. That Mr. Harvey is respectfully solicited to permit his portrait to be painted for the society, to be hung up in the hall, that the lineaments of the confidential associate of Webster, and of one of the principal benefactors of the society, may never, on this spot, pass out of memory.

On motion of Mr. J. B. Walker,—

*Resolved*, That the president and Rev. Dr. Bouton be hereby appointed a committee to carry into effect the provisions of the foregoing resolutions.

The thanks of the society were voted to J. Hamilton Shapley, Esq., for the presentation of two grape-shot taken from the ammunition of the Privateer Fox at the close of the War of 1812-'15.

Adjourned till 2 o'clock P. M.

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#### AFTERNOON SESSION.

The society met according to adjournment, the president in the chair.

Mr. Joseph Dow, from the committee appointed to nominate officers, reported as follows:

*President*—Charles H. Bell; *Vice-Presidents*—Benjamin F. Prescott, Jonathan E. Sargent; *Corresponding Secretary*—Nathaniel Bouton; *Recording Secretary*—Amos Hadley; *Publishing Committee*—William

L. Foster, John J. Bell, Albert R. Hatch; *Standing Committee*—Joseph B. Walker, Ebenezer S. Towle, Enoch Gerrish; *Auditing Committee*—Woodbridge Odlin, Joseph C. A. Hill; *Library Committee*—Joseph B. Walker, John J. Bell, John A. Harris; *Treasurer*—Samuel S. Kimball; *Librarian*—Samuel C. Eastman.

The report was accepted, and the gentlemen therein nominated were elected to the offices for which they were designated.

Mr. J. E. Sargent, from the committee appointed to nominate new members, reported the following persons, who were unanimously elected:

#### RESIDENT MEMBERS.

Austin T. Sanger, George H. H. Silsby, Luther P. Durgin, Josiah B. Sanborn, Peter Sanborn, Stillman Humphrey, Howard A. Dodge, John C. Thorn, of Concord; Zimri S. Wallingford, John Bracewell, Charles H. Sawyer, of Dover; George N. Eastman, of Farmington; Alexis Proctor, of Franklin; Cyrus Eastman, Charles F. Eastman, of Littleton; Dr. R. J. P. Goodwin, of Manchester; Elliot E. Cogswell, of Northwood; Rev. Alfred Elwyn, George E. Goodwin, of Portsmouth; Charles S. Whitehouse, of Rochester.

#### CORRESPONDING MEMBERS.

Charles Levi Woodbury, Boston; Gustavus V. Fox, Lowell, Mass.; Rev. Silas Ketchum, Maplewood, Mass.

#### HONORARY MEMBERS.

Dr. Alexander T. Watson, Dresden, Saxony; Prof. U. Beljame, Paris, France.

Rev. James DeNormandie read a memoir of the late John Elwyn, of Portsmouth. The thanks of the society were tendered to Mr. DeNormandie, and a copy of his interesting paper was requested for deposit in the archives of the society.

Mr. W. L. Foster presented the report of the Publishing Committee, which was accepted.

[Vice-President Sargent in the chair.]

Mr. John J. Bell was appointed a delegate—with such others as the standing committee might join—to attend the Archæological Convention to be held in Philadelphia, September 4;

and the standing committee was also authorized to appoint delegates to the Convention of Historical Societies to be held in Philadelphia, August 1, 1876.

Rev. Dr. Bouton called the attention of the society to sundry interesting matters, including copies of valuable papers presented by Senator Cragin, and also a memoir of Gen. James Reed, prepared by Amos J. Blake, Esq., of Fitzwilliam.

This memoir was read, and the thanks of the society were tendered to Mr. Blake for the same.

The thanks of the society were also tendered to Senator Cragin for the copies of valuable papers presented by him.

On motion of Mr. J. B. Walker, Mr. B. F. Prescott was appointed a committee to solicit of the family of the late Gov. Plumer, for preservation in the archives of this society, such of his manuscripts and other papers as they may be willing to place here for use and preservation.

On motion of the same gentleman, it was voted that a tax of three dollars be levied upon each resident member of the society for the year 1876-'7; and that a member paying two dollars in addition to his tax shall be entitled to the 9th volume of Provincial Records.

It was also voted that volumes 1 and 2 of the Provincial Papers shall not be sold save for the purpose of completing sets; and that the price of copies sold shall be \$5 for volumes 1 and 2, and \$4 for the others.

On motion of Rev. Dr. Bouton, Mr. C. F. Stewart was appointed a committee to confer with Admiral Henry K. Thatcher, in relation to papers of Gen. Henry Knox in his possession, with a view to obtaining them for the use of the society.

On motion of Mr. Sylvester Dana, Rev. Dr. Bouton was requested to prepare a memoir of the late William B. Towne.

Messrs. J. B. Walker, W. L. Foster, and Sylvester Dana were appointed a committee to select an orator for the next annual meeting.

The society then adjourned.

## GEN. JAMES REED.

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SKETCH OF HIS LIFE AND CHARACTER, BY AMOS J. BLAKE, OF  
FITZWILLIAM.

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Gen. James Reed, the original proprietor of Monadnock Number 4, now Fitzwilliam, N. H., was a native of Woburn, Mass., where he was born in the year 1724. He was a descendant, in the fifth generation, of William and Mabel Reed, who sailed from London, July, 1635, and arrived in Boston in October the same year, and in 1648 settled in Woburn. He was the eldest son of Joseph and Sarah (Rice) Reed, of Woburn. His ancestors had lived in Woburn since the settlement of William, the emigrant. Of the early life and education of James Reed, no record remains. His official papers and correspondence, while they bear evidence of superior abilities, show that his literary advantages, like those of many of his contemporaries, were somewhat limited. He married Abigail Hinds, of New Salem, and first settled in Brookfield, and afterwards in that part of Lunenburg now Fitchburg. His dwelling stood upon the site of the present city hall. The records of both Brookfield and Lunenburg show him to have been a member of the church in both places. His military life commenced in 1755, when he served in the campaign against the French and Indians, commanding a company of provincial troops under Colonel Brown. In the same capacity he served with Gen. Abercrombie in 1758 at Ticonderoga, and with Gen. Amherst in 1759. He was employed in various public services until the peace of 1763. In the year 1765 he settled in Fitzwilliam, and in 1770 he received the commission of lieutenant colonel.

The lapse of time has hidden from view a detailed account of his services in these campaigns; but his early selection by his countrymen for the command of a regiment at the beginning of the Revolution indicates that his military career was creditable



to himself, and valuable to his country. It was in this severe school that he, like many of the officers of the Revolution, acquired that military skill which gave strength and efficiency to the continental army. On the 19th of May, 1773, Col. Reed, with several others, received a grant of Fitzwilliam, or Monadnock No. 4, from John Wentworth, the provincial governor of New Hampshire.

In 1770, he, with his family, settled about a mile north-west of the centre village in Fitzwilliam, where he erected a large and commodious house. Being the owner of a considerable portion of the area of the town, he was actively employed in promoting its settlement, and for those times was considered wealthy; and the first school in Fitzwilliam was taught in his house by Miss Sarah Harris at the age of seventeen. His name appears upon the records as the leading spirit of the town.

He was proprietors' clerk, and moderator of the town-meetings for several years after its incorporation. On the breaking out of the Revolution, he was among the first to embrace the cause of his country, and serve in its defence. Upon the tidings of the battle of Lexington, he raised a company of volunteers, and marched at their head to Medford. His ardor in the cause did not permit him to be idle. He continued to enlist volunteers, and soon had four companies enrolled under his standard. He afterwards repaired to Exeter, and was appointed colonel of a regiment by the New Hampshire provincial assembly on the first of June, 1775. On the following day he received verbal orders from Gen. Folsom at Exeter to repair to the western part of the state, and collect the men which he had previously enlisted for the service; and in pursuance therewith he immediately set out to collect and organize his regiment.

He was at Fitzwilliam on the 8th of June, as appears by his letter of that date to the provincial congress, recommending the appointment of Andrew Colburn, of Marlborough, major of the next regiment which should be raised. He soon after marched his command to Cambridge. By his communication to the committee of safety at Exeter, we learn that he arrived there on the twelfth of the month. He waited on Gen. Ward,

who ordered his command to Medford, on account of the throng of soldiers at Cambridge.

On reaching Medford, he was informed by Colonel Stark that no quarters could be there obtained. In this dilemma, he again applied to General Ward, who issued the order "that Col. Reed quarter his regiment in the houses near Charlestown Neck, and keep all necessary guards between the barracks and ferry and on Bunker Hill." On the thirteenth he marched his regiment to the Neck, where they obtained good quarters. On the fourteenth he issued regimental orders, twelve in number. They were stringent in their terms, and from their tenor they indicate that the position of the regiment was an important one, and that vigilance was necessary for the safety of the command. The same day he wrote a communication to the committee of safety at Exeter, giving a detailed account of his movements since he had left Exeter, and closed by stating the want of a chaplain, surgeon, and armorer for his regiment. On the fifteenth he issued supplementary orders, which added to the stringency and efficiency of the former. A better idea of this order may be gathered by giving it entire :

"Charlestown, June the 15, 1775.

*"Regimental Orders*—The main Gard this day is to consist of one Capt. 2 Luts. 4 Sergeants, 4 Corporals and 50 privets. The Capt. of the main Gard is to keep a trusty Sergeant with the Sentries in the Street below the Gard house to examine all passangers. Let none pass without showing proper passes in the day time and none to pass after Nine O'clock at night without giving the countersine, and no sentry is to set down on his post and when any field officer passes them to stand with their firelocks rested; no soldier is to swim in the water on the Sabbath day, nor on any other day to stay in the water longer than is necessary to wash themselves.

(Signed) James Reed Coll."

This order is characteristic of the man, and shows that no lack of discipline and vigilance was allowed in his command, that they might be prepared for a movement, which, it is reasonably inferred, he was aware would soon be made. The crisis was close at hand. On the morning of the memorable 17th of June he was the first officer of his rank on the field, and his the only regiment from New Hampshire ready for action on

the morning of the battle of Bunker Hill. He was stationed on the left wing by the rail fence, where he was joined at two o'clock in the afternoon by Colonel Stark. This was by all accounts the hottest as well as the best fought portion of the field. The ready genius of Colonel Reed designed the parapet, which, constructed by the brave soldiers of New Hampshire under fire of the enemy's batteries, so wonderfully preserved them from the disasters of the day.

This parapet consisted of a breastwork of stones, hastily thrown across the beach to Mystic river, and a rail fence extending up the hillside to the redoubt. It was in front of this breastwork that the British lines were three times hurled back under the deadly fire of Reed and Stark. Here the most efficient fighting was done, and here the greatest number of dead were lying when the battle had ceased. After the third and last repulse, the New Hampshire troops raised the shout of victory, rushed over the fence, and pursued the retreating foe, until restrained by Colonel Stark.

This post, so nobly defended through the action, and so resolutely maintained against the last assault of the British after the redoubt had fallen, defeated General Howe's design of cutting off the main body. After the redoubt had given way, this heroic band slowly retreated, and Col. Reed was the last officer who left the field.

He remained with the army after its command was assumed by General Washington, being posted on Winter Hill; and upon the reorganization of the forces on the first of January, 1776, his regiment was ranked second in the continental army. The evacuation of the British troops on the seventeenth of March concluded the siege of Boston, and Colonel Reed accompanied the army on its movement to New York on the following April. On the twenty-fourth of April he was put into the third brigade under General Sullivan, and was soon after ordered up the Hudson to relieve the force under Arnold.

The following receipt, extracted from the American Archives, given on his departure from New York, serves to illustrate the confidence reposed in Colonel Reed:

"New York April 29<sup>th</sup> 1776.

"Then received from Gen. Washington three boxes, said to contain

three hundred thousand dollars, to be delivered to Gen. Schuyler at Albany.

(Signed)

James Reed."

The money above alluded to was doubtless for the payment of Schuyler's army.

Sullivan's command passed over the ground which was familiar to Colonel Reed by his campaigns in the previous wars, as far as the mouth of the river Sorel. Here they met the retreating army, and Gen. Sullivan assumed the command. Colonel Reed's skill and fortitude in the conduct of the retreat are highly spoken of. On one occasion, in the absence of Arnold, he received and held a talk with the chiefs of some Indian tribes. It was managed with address, and successfully concluded by Colonel Reed; and the pledges of their friendly disposition were transmitted by him to the president of congress. The retreat reached Ticonderoga on the first of July, 1776.

A worse foe than the enemy at this time attacked the American army. Disease, the unfailing attendant of hardships and exposure, now broke out, and prevailed to an alarming extent. Small-pox, dysentery, and malignant fever rapidly thinned the ranks of the patriot army. Colonel Reed was attacked with fever at Crown Point, and, perhaps for want of proper medical treatment, suffered the loss of his sight. This calamity terminated his prospects for any further usefulness in the service of his country. It was while thus suffering from dangerous illness he was created a brigadier general of the continental army. He was appointed by congress on the ninth of August, 1776, on the recommendation of Gen. Washington.

On the second of September, Gen. Gates speaks of him as so ill at Fort George that he would probably not be fit for service in that campaign.

He received orders from Gen. Washington to join him at head-quarters, but on account of sickness was unable to comply. He eventually retired from the army on half pay, until the close of the war.

He returned to Fitzwilliam, where he resided until the year 1783, when he moved to Keene. Here his wife, Abigail, died. The following inscription was taken from the large head-stone of slate erected to her memory in the cemetery at Keene :



“In memory of Mrs. Abigail, wife of Genl. James Reed, who departed this life August 27<sup>th</sup>, 1791, in the 68<sup>th</sup> year of her age.

“There’s nothing here but who as nothing weight.  
The more our joy the more we know it’s vain;  
Lose then from earth the grasp of fond desire,  
Weigh anchor and some happier clime explore.”

Hale, in his “Annals of Keene,” says that “General Reed, whose ordinary residence was Fitzwilliam, is remembered here as an aged blind man, and as almost daily seen, after the close of the war, walking up and down Main street, aided and guided by Mr. Washburn, who was paralyzed on one side.”

He resumed his residence in Fitzwilliam, where he married for his second wife Molly Farrar, of the same town. About the year 1800 he removed to Fitchburg, where he spent the remainder of his days. He died at Fitchburg February 13, 1807, aged 83 years, and was buried with military honors. In the old burying-ground at Fitchburg stands his monument, quite elaborate for the times, which bears the following quaint inscription:

“In the various military scenes in which his country was concerned, from 1755 to the superior conflict distinguished in our history as the Revolution, he sustained commission in that Revolution. At the important post of Lake George he totally lost his sight. From that period to his death, he received from his country the retribution allowed to pensioners of the rank of brigadier general.”

In all the relations of a long and useful life, General Reed sustained the highest character for honesty and integrity. In the numerous records relating to him, there is naught found but words of praise. Wherever his name is mentioned by his comrades in arms, from Washington down, it is in terms of commendation and eulogy. He was emphatically a Christian warrior. In the church records of the various towns where he resided his name is enrolled among the records of each, and his military orders bespeak the Christian as well as the soldier. Upon the records of the Congregational church in Fitzwilliam we find the following:



"James Reed admitted March 27<sup>th</sup> 1771."

"Dismissed to church in Keene June 29<sup>th</sup> 1783."

"Abigail Reed admitted September 22<sup>nd</sup> 1771."

"Dismissed to church in Keene June 29<sup>th</sup> 1783."

Gen. Reed's family consisted of six sons and five daughters. His descendants are quite numerous, and among them are found brilliant names in different parts of our country. Two of his sons, Sylvanus and James, served in the war of the Revolution. Sylvanus was an ensign in his father's regiment. His commission, which is still preserved, bearing date January 1, 1776, is signed by John Hancock, president of congress. He was adjutant in the campaign of 1778 under Gen. Sullivan, and was afterwards promoted to the colonelcy of a regiment. He served through the war, and died at Cambridge, Mass., in 1798. James Reed, Jr., also served through the war. He was disabled in service, and died a pensioner at Fitzwilliam, February 19, 1836, at the age of 89 years.

## ANNUAL MEETING.

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CONCORD, N. H., June 13, 1877.

The fifty-fifth annual meeting of the society was held at its library room, this day, at eleven o'clock A. M., Hon. J. E. Sargent, one of the vice-presidents, in the chair.

The record of the last meeting was read and approved.

The report of the corresponding secretary, Rev. Dr. Bouton, was presented and accepted. The request with which the report closed, that the author be relieved from further service as corresponding secretary, was, on motion of Mr. J. J. Bell, referred to the committee hereafter to be appointed for the nomination of officers.

Sundry papers, accompanying the corresponding secretary's report, were read, comprising letters from Hon. Charles H. Bell, written from London, respecting the late Hon. Lorenzo Sabine; from A. Beljame, of Paris, and Alexander T. Watson, M. D., of Saxony, accepting honorary membership; also an item of the late F. O. J. Smith's will, conditionally bequeathing ten thousand dollars to the society, to be denominated the "F. O. J. Smith Fund;" also a communication from an association in San Francisco, Cal., called "Sons of Revolutionary Sires."

Mr. Samuel S. Kimball, treasurer, presented his report, which was accepted. This report showed debits amounting to \$1,637.69; credits, \$688.46; balance on hand, \$949.23.

Mr. Joseph B. Walker, from the standing committee, made a report respecting the arrangement and binding of the newspapers belonging to the society, which work had been vigorously prosecuted during the year. The report recommended the appointment of a committee, consisting of gentlemen in different parts of the state, to aid in completing imperfect newspaper files. The report also suggested the expediency of appointing a committee upon the legacy of F. O. J. Smith, in suspense in the Court of Errors of the state of New York.

Mr. D. F. Secomb, who had been engaged during the year in arranging and procuring the binding of newspapers, made a

statement, supplemental to the standing committee's report, by which it appeared that the papers had been arranged in files; fifty volumes had been bound; one hundred fifty-four volumes stitched together, and provided with strong paper covers; and the remainder tied up in volumes.

The report of the committee and the accompanying statement were accepted.

Mr. Samuel C. Eastman, librarian, presented his report, which was accepted. The request with which the report closed, that the author be excused from further service as librarian, was referred to the committee on the nomination of officers. The report stated that the library had been open every Tuesday during the year, also every day during the session of the legislature, and at least half of the time for the remainder of the year. Mr. W. K. Bartlett had continued his services as assistant librarian during a part of the year; but Mr. D. F. Secomb being in the employ of the standing committee in arranging the newspapers, it was thought inexpedient to have two persons in the employ of the society, and accordingly Mr. Secomb was made assistant librarian, with the understanding that he was to continue his work on the newspapers. The report adds,—“Mr. Bartlett has worked faithfully and efficiently for the Society, and deserves honorable mention and thanks.” It also appeared from the same report that the additions to the library during the year had been 1,097 pamphlets and 354 volumes. Of these, 88 pamphlets and 12 volumes were obtained by exchange, and the others by gift.

Rev. Dr. Bouton presented a communication from A. H. Hoyt, Esq., of Boston, enclosing a letter from Anna Farrar Crane, of Boston, offering a collection of letters and papers belonging to her father, the late Hon. Timothy Farrar, LL. D., to be kept together and called “The Farrar Papers,” and none of them to be taken from the society's building by any one on any pretext: *whereupon*,—

*Voted*, That the N. H. Historical Society accept, with thanks, and upon the conditions proposed by the donor, the gift by Mrs. Anna Farrar Crane of letters and papers belonging to her father, the late Hon. Timothy Farrar, LL. D.

[Gov. Prescott in the chair.]

Committees to nominate officers and new members were appointed.

On motion of Rev. Dr. Bouton, a committee of three was appointed by the chair to consider the name "Kearsarge," consisting of Rev. Dr. Bouton of Concord, Hon. Gustavus V. Fox of Boston, and John M. Shirley, Esq., of Andover.

Gov. Prescott presented, for the author, Rev. Henry A. Hazen of Billerica, Mass., a work entitled "The Congregational and Presbyterian Ministry and Churches of New Hampshire," which was accepted.

Mr. Frank W. Hackett, of Portsmouth, offered the following resolution, which was adopted :

A resolution in favor of early legislation to comply with the request of Congress to send statues to the Hall of Representatives at Washington :—

*Whereas*, His Excellency the Governor, in his annual message to the present legislature, recommends suitable legislation to enable the state to comply with the request of Congress to each of the states to place the statues of two of its prominent citizens in the old Hall of the House of Representatives at Washington :—

*Resolved*, That the New Hampshire Historical Society views this recommendation with hearty approval, and urges upon our senators and representatives the propriety of early legislation to accomplish this desirable result.

*Resolved*, That a copy of these resolutions be sent to the Honorable President of the Senate and the Speaker of the House.

Mr. W. H. Y. Hackett, from the committee to nominate officers, made a report, which was accepted, and the following gentlemen were elected to the offices, as therein designated, as follows :

*President*—Charles H. Bell ; *Vice-Presidents*—Benjamin F. Prescott, Jonathan E. Sargent ; *Corresponding Secretary*—Nathaniel Bouton ; *Recording Secretary*—Amos Hadley ; *Publishing Committee*—William L. Foster, John J. Bell, Albert R. Hatch ; *Standing Committee*—Joseph B. Walker, E. S. Towle, Enoch Gerrish ; *Auditing Committee*—Woodbridge Odlin, Joseph C. A. Hill ; *Library Committee*—Joseph B. Walker, John J. Bell, John A. Harris ; *Treasurer*—Samuel S. Kimball ; *Librarian*—Samuel C. Eastman.

The reading of papers was assigned to two o'clock P. M.

On motion of Mr. Joseph B. Walker, a committee was appointed by the chair to secure the perfection of the present newspaper and pamphlet files of the society, consisting of Messrs. S. C. Gould of Manchester, John A. Harris of Concord, and Frank W. Hackett of Portsmouth.

On motion of Mr. S. C. Eastman, a pamphlet entitled "Facts about the Carroll County Kearsarge Mountain of New Hampshire, read before the Appalachian Mountain Club by G. V. Fox," was referred to the committee appointed to consider the name "Kearsarge."

On motion of Mr. P. B. Cogswell,—

*Voted*, That a tax of three dollars be levied upon each resident member of the society for the year 1877-'8; and that any member paying two dollars in addition to his tax shall be entitled to the tenth volume of Provincial Records.

On motion of Mr. Joseph B. Walker, a committee was appointed by the chair to take such measures as may tend to secure the legacy of F. O. J. Smith, consisting of Messrs. Joseph B. Walker, Charles H. Bell, and W. H. Y. Hackett.

Adjourned till two o'clock P. M.

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#### AFTERNOON SESSION.

The society met according to adjournment, Gov. Prescott in the chair.

Rev. Dr. Bouton read a memoir of Hon. Nahum Parker, by his son Hon. Amos A. Parker, of Fitzwilliam, which was ordered to be placed on file in the archives of the society.

Rev. Silas Ketchum read a paper on "The Importance of Preserving the Original Sources of History."

Admiral Thatcher read a memoir of Gen. Henry Knox.

On motion of Mr. J. B. Walker, the thanks of the society were tendered to Messrs. Ketchum and Thatcher for their interesting and instructive papers, and copies of the same were requested for deposit in the archives of the society.



On motion of Mr. G. G. Fogg, the committee on the name "Kearsarge" were requested to report such facts as they might be able to collect at a future meeting of the society, of which due notice should be given.

On motion of Mr. D. F. Secomb, the corresponding secretary read a brief paper, written by Hon. Amos A. Parker, of Fitzwilliam, upon the visit of Gen. Lafayette to New Hampshire, in 1825.

On motion of Mr. C. F. Stewart, it was voted that Hon. Amos A. Parker be invited to deliver an address on the "Visit of Lafayette to New Hampshire," in the Senate Chamber, at eight o'clock P. M., June 14th inst.

Mr. S. C. Eastman, from the committee to nominate new members, reported the names of the following persons, who, after the acceptance of the report, were unanimously elected members of the society.

#### RESIDENT MEMBERS.

Austin T. Sanger, William M. Chase, of Concord; Amos Andrew Parker, of Fitzwilliam; Albert L. Eastman, of Hampstead; Hiram Blake, Royal H. Porter, John W. Sturtevant, of Keene; John J. Pickering, Titus Salter Tredick, Alfred Elwyn, Samuel Langdon, of Portsmouth; Joseph B. Abbott, of Richmond; Jeremiah Blodgett, of Wentworth.

#### CORRESPONDING MEMBERS.

Dr. Henry L. Butterfield, Waupun, Wis.; Henry W. Wadleigh, Boston, Mass.; Jonathan Cilley, Thomaston, Me.

Adjourned.

## LETTER OF MR. BELL.

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LONDON, ENGLAND,

19 May, 1877.

DEAR SIR: I have heard with sincere sorrow of the recent death of our esteemed and valued friend, Hon. LORENZO SABINE. It seems to me peculiarly proper that some notice should be taken at the annual meeting of the N. H. Historical Society of the loss of one so eminent in the department of historical literature, connected as he was, especially, with our society and our state.

Mr. Sabine was a native of Lisbon, N. H., and though the greater part of his life was passed in Maine and Massachusetts, he always cherished a cordial affection for the state of his nativity, and felt pride in her prosperity and good fame. His name has been for some years upon the roll of honorary members of our society, and he was most kindly and generously disposed towards us.

Throughout his long life Mr. Sabine was a model of systematic and persevering industry. With few early advantages, and constantly engaged, from his youth up, in exacting business pursuits, he yet found time to acquire a thorough education, in the best sense of the term, as well as to perform an amount of literary work which alone would be no unworthy fruit of a life-time of labor.

His principal publication, the "Loyalists of the American Revolution," is a monument of patient industry. The materials for its composition had to be rescued from oblivion from a thousand scattered sources, and in disjointed fragments, demanding unwearied pains, nice discrimination, and wide and exact knowledge to shape them into consistency and harmony. How admirably the work was accomplished every student of the Revolutionary period of our country's history can bear witness. Mr. Sabine's "Report on the Fisheries," though of a less pretending character, cost its author an incredible deal of study

and research, and is also a most valuable contribution to our national history. It is worthy of remark, that the field explored in each of these works was before almost untrodden, thereby rendering the difficulties of the task proportionately greater.

No adequate mention is possible in this brief communication of the other varied productions of Mr. Sabine's unwearied pen ; but everything which emanated from that source was sure to be accurate, well-considered, and of sterling value. Nor is it necessary to mention his experience as a member of congress farther than to say that he discharged faithfully his official duties, beside diligently employing the facilities which the position afforded him to gather the materials for his favorite history.

Towards the latter part of his life, Mr. Sabine took much pleasure in collecting a choice and valuable library. It was his intention to admit into it none but works of standard excellence, of the best editions, and in fine condition. When complimented on the beauty and worth of the collection, he boasted, with honest pride, that it was purchased entirely with the profits of his literary labors,—a consideration which must greatly enhance its interest and value to any future possessor thereof, as it did to himself.

In private life Mr. Sabine was all that was honorable and estimable. In his domestic relations, no man was more true, tender, and affectionate. His social qualities were of a rare order. He possessed a never-failing fund of information and anecdote, upon which he delighted to draw for the amusement and instruction of those about him ; and his genial manners and unaffected kindness endeared him to all who were so fortunate as to gain admission to the circle of his friends.

Mr. Sabine was also a thoroughly pure and good man. In the whole conduct of his life he was actuated by none but high and worthy motives. He has left an example which will serve as an encouragement to honest and earnest effort, and his memory will be dear alike to the student of history and to the lover of moral worth.

Very truly yours,

CHARLES H. BELL.

Rev. Dr. BOUTON,

Cor. Sec. N. H. Hist. Soc.

## HON. NAHUM PARKER

Was a native of Shrewsbury, Mass. His father was Amos Parker, of Lexington, who moved into Shrewsbury in 1750, and was a brother of John Parker who commanded the company of militia on Lexington common at the commencement of the Revolutionary war, and was one of the eight men killed. His name is on the Lexington monument. Amos Parker was born July 26, 1723, and died December 23, 1790, aged 67. His wife, Anna Stone, was born October 21, 1726, and died November 13, 1799, aged 73. They had nine children: the two oldest were born in Lexington, the others in Shrewsbury. The names of the children are,—

Anna, who married Dea. Jonas Stone, of Shrewsbury.

Amos, Jr., who settled in Hubbardston.

Isaac, who settled in Westborough.

Hollis, who settled on the homestead in Shrewsbury.

Elisha, who settled in Gerry, and removed to Bakersfield, Vt.

Ephraim, who settled in Fitzwilliam, N. H.

Nahum, who also settled in Fitzwilliam.

Frederick, who was a clergyman, settled in Canterbury, N. H.

Elizabeth, who married Amos Whitney, of Worcester, Mass.

It will be seen that there were two daughters and seven sons, of whom Nahum was the sixth. All the sons were more or less in the Revolutionary war, except the youngest.

Nahum Parker moved into Fitzwilliam in March, 1786, and settled on a farm on the east side of the town. He resided there until the day of his death, November 12, 1839, and, as he was born March 4, 1760, was not quite 80 years of age.

He held quite a number of offices during his life. He had eleven commissions as justice of the peace, of the quorum and throughout the state. His first commission is dated January 9, 1794, and signed by Josiah Bartlett; and the last is dated Decem-

ber 20, 1836, and signed by Isaac Hill. Of the eleven commissions, three were signed by John Langdon, three by John T. Gilman, and one each by Josiah Bartlett, Samuel Bell, David L. Morril, Matthew Harvey, and Isaac Hill.

He had three commissions as judge of the court of common pleas. The first is a commission as "Chief Justice of the Court of Common Pleas for the County of Cheshire," dated February 3, 1807, and signed by John Langdon. The second is a commission as "an Associate Justice of our Circuit Court of Common Pleas for the Western Circuit," dated July 13, 1813, and signed by John T. Gilman. The third is a commission as "an Associate Justice of the Court of Common Pleas for the County of Cheshire," signed by William Plumer, and dated July 5, 1816.

June 13, 1806, he was chosen a senator in the congress of the United States,—Samuel Bell, speaker of the house of representatives, J. A. Harper, clerk of the senate, and Philip Carrigain, secretary of state. The commission is in the form of a joint resolution passed by both houses, not signed by the governor, nor bearing the seal of the state of New Hampshire. As his duties as senator interfered with those of judge of the court, at the end of three years he resigned.

In 1790 he was chosen selectman of the town of Fitzwilliam, and held the office a few years. In 1794 he was elected a representative of the town to the general court, and reelected for quite a number of years. He was also elected as councillor for the fifth district, and in 1828 senator to the general court from district No. 9.

He was a self-educated man, and a great reader. Most of his leisure hours were spent among his books. At the time of his death he had quite a library—miscellaneous books, standard works, and elementary law books, such as Chitty's Pleadings, Blackstone's Commentaries, American Precedents, Story's Pleadings, &c., &c. If not "learned in the law," he was a good lawyer. It was sometimes surprising to see with what an irresistible grasp he would take hold of a subject and probe it to the bottom.

During his long career in town he performed much public business, often moderator of town meetings, even when party



politics were against him. Often he acted on important committees, settled many estates, and for many years was the general expounder of the law in the town.

At the early age of 16 he went into the Revolutionary army from Shrewsbury. How long he stayed there, there are no means at hand to determine. He kept a diary at the time, and if that could be consulted, the question might probably be settled. But it seems that some time in the year 1817, when pensions were granted to all Revolutionary soldiers, he applied for a pension, and as evidence of services performed, sent to the secretary of war, J. C. Calhoun, his diary, accompanied by an affidavit stating that he was the identical man who performed the services mentioned therein, and at once received his pension certificate,—the secretary remarking that the evidence was conclusive, for no man could make such a diary as that without having performed the services.

He was a man of fine personal appearance, pure in speech, and of sound morals. His health was remarkably good, he not deeming it necessary to consult a physician until a short time before his death.

“Our fathers, where are they?—and the prophets, do they live forever?”

## QUARTERLY MEETING.

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CONCORD, N. H., March 19, 1878.

The society met this day in quarterly meeting, in room No. one in State House, at eleven o'clock A. M., the president, Hon. Charles H. Bell, in the chair.

On motion of Mr. S. C. Eastman, the committee on the "Plumer Papers" was instructed to inquire what books and papers belonging to the late Gov. Plumer can be obtained for the society, and at what expense.

On motion of the same gentleman,—

*Resolved*, That Hon. George W. Nesmith be earnestly requested to prepare for publication, without delay, his personal recollections of Daniel Webster, and that this vote be communicated to him by the officers of the society.

On motion of the same gentleman, the thanks of the society were tendered to ex-Gov. Onslow Stearns for the gift of his portrait for the library room.

On motion of Mr. J. M. Shirley, it was voted that the publishing committee be requested to proceed with the publication of a volume when sufficient material should be obtained.

A committee to nominate new members was appointed, consisting of Messrs. John J. Bell, Samuel C. Eastman, and John M. Shirley, to report at the next annual meeting.

On motion of Rev. Dr. Bouton, Hon. Charles H. Bell was appointed a committee to consider, in connection with the U. S. Coast Survey, the subject of the nomenclature of places along the coast, and to report at the next meeting of the society.

Adjourned.

## ANNUAL MEETING.

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CONCORD, N. H., June 12, 1878.

The fifty-sixth annual meeting of the society was held at its library room this day, at eleven o'clock A. M.

The president, Hon. C. H. Bell, being absent, and neither of the vice-presidents being present, the society was called to order by the recording secretary, and Hon. W. H. Y. Hackett was appointed to the chair as president *pro tempore*.

The records of the last annual and quarterly meetings were read and approved.

The presentation of the report of the corresponding secretary being in order, Mr. Joseph B. Walker offered the following resolutions:

*Resolved*, That we have learned with profound sorrow of the death of our late associate, Rev. Nathaniel Bouton, D. D., who has been for half a century a devoted friend of this society, and who, for the last thirty-four years, has discharged with marked ability the duties attaching to the office of its corresponding secretary.

*Resolved*, That                    be hereby requested to prepare a memorial sketch of the life and services of Dr. Bouton, giving therein due attention to his labors as a historian, and present the same to the members of this society at their next annual meeting, or at such other time as the president and standing committee may deem desirable.

*Resolved*, That the recording secretary be hereby requested to send to the family of the deceased a transcript of the foregoing resolutions, and to furnish to the *Daily Monitor* and other newspapers of this city copies thereof for publication.

The blank in the second resolution having been filled, on motion of Mr. J. J. Bell, by inserting the name "Joseph B. Walker, Esq.," as the person designated to prepare a memorial sketch of the life and services of the late corresponding secretary, the resolutions were adopted.

The report of the treasurer, S. S. Kimball, was presented, read, and accepted. The report showed debits (including bal-

ance on hand from last year, \$949.23) amounting to \$1,848.03 ; credits, \$374.35 ; balance on hand, \$1,473.35.

A verbal report from the standing committee was accepted.

The librarian, Mr. Samuel C. Eastman, presented his report, which was accepted. It stated that the library had been open 125 days during the year, under the care of Mr. D. F. Secomb, assistant librarian. During the year, 3,726 pamphlets and 941 volumes had been received. Of these, 154 pamphlets and 51 volumes had been obtained by exchange, 259 pamphlets by purchase, and the remainder by gift.

A committee was appointed to nominate officers.

Mr. J. J. Bell, from the committee appointed at the last quarterly meeting to nominate new members, reported the names of the following persons, who, after the acceptance of the report, were elected members of the society, as follows :

#### RESIDENT MEMBERS.

Walter Harriman, Gustavus Walker, James O. Lyford, Frank H. Brown, of Concord ; Daniel W. Edgerly, of Farmington ; Thomas Cogswell, of Gilmanton ; Samuel C. Bartlett, of Hanover ; E. P. Jewell, of Laconia ; John B. Hill, of Mason ; Edward H. Spalding, of Nashua ; Lory Odell, of Portsmouth ; James A. Edgerly, Joseph A. Stickney, of Somersworth.

#### CORRESPONDING MEMBERS.

George A. Gordon, Lowell, Mass. ; Charles S. Stearns, Charlestown, Mass. ; John T. Perry, Cincinnati, Ohio.

On motion of Mr. J. B. Walker,—

*Voted*, That the manuscripts and pamphlets, presented by the late Dr. Bouton to this society, be accepted on the conditions upon which they have been offered, and that they be placed by the librarian upon shelves selected for the purpose, and there plainly designated as “ The Bouton Papers.”

On motion of Mr. J. J. Bell, the society accepted the offer, from Hon. Gustavus V. Fox, of maps and letters relating to the “ Kearsarge question,” and the thanks of the society were tendered to him therefor.

Mr. J. J. Bell presented, in behalf of Mr. James A. Edgerly,

of Great Falls, a "Memoir of John Hanson, President of the Continental Congress," prepared by Douglas H. Thomas, of Baltimore, which was accepted, with the thanks of the society to the donor.

On motion of Mr. P. B. Cogswell, the vacancy in the committee on the name "Kearsarge," occasioned by the death of Rev. Dr. Bouton, was filled by the appointment of Prof. Charles H. Hitchcock, of Hanover.

On motion of Mr. S. C. Eastman, it was voted that a tax of three dollars be levied on each resident member of the society for the year 1878-9.

On motion of Hon. Charles Levi Woodbury, of Boston, a corresponding member, the committee already charged with the subject of the "Coast Names" in New Hampshire was ordered to be enlarged by the addition of five members; and also was instructed to consider and report as to the ancient names of rivers, mountains, hills, and lakes in this state, and what steps should be taken to preserve the ancient names, whether Indian or English.

The committee constituted under the foregoing vote was made to consist of Messrs. C. H. Bell of Exeter, Gustavus V. Fox of Boston, John M. Shirley of Andover, Amos J. Blake of Fitzwilliam, Charles H. Hitchcock of Hanover, John S. Jenness of Portsmouth.

Mr. George G. Fogg, from the committee to nominate officers, reported a list. The report was accepted, and the following gentlemen were elected to the offices therein designated:

*President*—Charles H. Bell; *Vice-Presidents*—Benjamin F. Prescott, Jonathan E. Sargent; *Corresponding Secretary*—George G. Fogg; *Recording Secretary*—Amos Hadley; *Treasurer*—Samuel S. Kimball; *Librarian*—Samuel C. Eastman; *Publishing Committee*—William L. Foster, John J. Bell, John M. Shirley; *Standing Committee*—Joseph B. Walker, Joseph C. A. Hill, Sylvester Dana; *Auditing Committee*—Woodbridge Odlin, Arthur Fletcher; *Library Committee*—Joseph B. Walker, John J. Bell, Rev. James DeNormandie.

Mr. J. M. Shirley made a statement respecting valuable correspondence of Daniel Webster, now in the possession of Prof.



Edwin D. Sanborn, of Dartmouth college, and he was authorized to see what measures might be taken to secure their ultimate deposit with this society.

Mr. Elwyn, of Portsmouth, presented volumes of Pamphlets and Rhymes, by the late Hon. John L. Elwyn, which were accepted with thanks.

Adjourned till 1:45 P. M.

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#### AFTERNOON SESSION.

The society met according to adjournment, Hon. J. E. Sar-ent, one of the vice-presidents, in the chair.

The annual address was then delivered by John T. Perry, Esq., of Cincinnati, Ohio, his subject being, "The Credibility of History."

On motion of Mr. J. B. Walker, the thanks of the society were tendered to the orator for his able and instructive address, and a copy of the same was requested for deposit in the archives of the society.

Mr. J. J. Bell, from the committee to nominate new members, reported the following additional list, and the gentlemen therein named were unanimously elected members of the society, as follows:

#### RESIDENT MEMBERS.

Clarence E. Carr, of Andover; Rev. S. C. Beane, Rev. Charles E. Harrington, of Concord; George F. Mosher, of Dover; Joseph Burrows, of Plymouth; A. H. Ladd, of Portsmouth; David H. Buffum, of Somersworth.

#### CORRESPONDING MEMBERS.

Rev. Charles D. Barrows, Lowell, Mass.; William Perry Fogg, Cleveland, Ohio; Hon. Charles W. Hutchinson, Utica, N. Y.

On motion, the president, the corresponding secretary, and the recording secretary, were appointed a committee to select an orator for the next annual meeting.

Adjourned.

## SPECIAL MEETING.

CONCORD, N. H., February 17, 1879.

The society met this day, at eleven o'clock A. M., at its rooms, in special meeting duly notified, the president in the chair.

The president presented brief memorial notices of Peter Harvey, Esq., and Hon. John S. Sleeper, both of Boston, and honorary members of the society, and of Hon. W. H. Y. Hackett, of Portsmouth, Ex-Gov. Onslow Stearns, and Abel Hutchins, Esq., of Concord, and Joseph W. Merrill, Esq., of Exeter, resident members, deceased since the last annual meeting.

The president presented a deed of release of the library of the late Lorenzo Sabine, of Boston, to the society, in accordance with the intent of an unexecuted codicil to the will of the said Sabine, by the daughters of the testator; also, the following resolutions:

*Resolved*, That the sincere thanks of the New Hampshire Historical Society be presented to Miss Abby Deering Sabine and Mrs. Matilda G. L. McLarren, the daughters of the late Hon. Lorenzo Sabine, for their ready and unsolicited fulfilment of the generous intentions of their father, by relinquishing to this society their residuary interest in his choice, extensive, and valuable library.

*Resolved*, That this society accepts the generous gift of Miss Sabine and Mrs. McLarren, of their interest in the said library, books, pamphlets, manuscripts, and pictures, upon the terms and conditions set forth in their deed of release thereof to the society, bearing date the 12th day of October, 1878; and will, on its part, comply with all the stipulations of said instrument.

*Resolved*, That a copy of the foregoing resolutions be forwarded to Miss Sabine and to Mrs. McLarren.

*Resolved*, That the secretary enter upon the records a copy of said deed of release, and that the original be deposited in the fire-proof chamber of the society's building.

The foregoing resolutions were adopted.

On motion of Mr. J. J. Bell, the portion of the aforesaid deed of release pertaining to by-laws or regulations respecting

the library of Mr. Sabine, was referred to the library committee, with full power in respect to effecting insurance upon the library now in possession of Mrs. Sabine, at Boston Highlands.

On motion of the same gentleman, the standing committee was instructed to prepare and report appropriate notices or resolutions upon the death of members of the society.

Thanks were tendered to the family of the late Hon. W. H. Y. Hackett for the gift of a portrait.

Mr. J. B. Walker was appointed to procure, if possible, for the society, certain papers left by the late Moody Kent, Esq.

Adjourned.

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## ANNUAL MEETING.

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CONCORD, N. H., June 11, 1879.

The fifty-seventh annual meeting of the society was held this day, at eleven o'clock A. M., at its library room.

In the absence of the president, the chair was occupied by Ex-Gov. B. F. Prescott, one of the vice-presidents.

The records of the last annual and special meetings were read and approved.

The corresponding secretary, Mr. George G. Fogg, made a verbal report, which was accepted.

The report contained a statement respecting a communication from the corresponding secretary of the historical society in Nova Scotia, concerning papers in Halifax pertaining to New Hampshire history; whereupon, on motion of Mr. J. B. Walker, the matter of the said historical papers in Halifax, N. S., was referred to the corresponding secretary of this society, to obtain further information concerning them.

The report of the treasurer, Mr. S. S. Kimball, was presented, read, and accepted. The report showed debits (including balance on hand from last year, \$1,473.35) amounting to \$2,007.46; credits, \$214.46: balance on hand June 10, 1879, \$1,793.10; increase of society's funds during the year, \$319.65.

On motion of Mr. J. B. Walker, the treasurer was requested to append to the next circular issued by him to members delinquent in paying assessments, the provision of the by-laws prescribing the penalty for such delinquency.

The librarian, Mr. S. C. Eastman, presented his annual report, which was read and accepted. The report stated that the library had been open about one third of the time during the year. The additions had been 305 volumes, 2,216 pamphlets, and 4,000 newspapers. Of these 43 volumes and 602 pamphlets were obtained by exchange, 5 volumes and 124 pamphlets by purchase, at the price of old paper, and the remainder by gift.

Committees were appointed to nominate officers and new members.

A resolution was adopted ordering an assessment of three dollars upon each resident member for the year 1879-'80.

On motion of Mr. Frank W. Hackett, a committee of three was appointed by the chair, consisting of Messrs. Frank W. Hackett of Portsmouth, J. E. Sargent of Concord, and George W. Nesmith of Franklin, to take into consideration the best method, whether by legislation or otherwise, to secure the better preservation of the early town and other public records, and to report upon the subject at the next annual meeting.

Mr. S. C. Eastman presented a communication from Hon. G. V. Fox, of the committee on the name "Kearsarge," which was read.

Mr. J. M. Shirley, of the same committee, presented a report, and having proceeded at some length in the reading of it, gave way to a motion to adjourn till two o'clock P. M., which motion prevailed, and the society adjourned.

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#### AFTERNOON SESSION.

The society met according to adjournment, ex-Gov. Prescott in the chair.

Mr. Shirley finished the reading of his report on the name "Kearsarge," the conclusion being that the name belongs of right exclusively to the mountain in Merrimack county.

The reports of Messrs. Shirley and Fox were ordered on file ; and, on motion of Mr. S. C. Eastman, it was voted that Mr. Fox be invited to compile, in compact form, his report this day presented, in his absence, and present the same at the next annual meeting of the society.

On motion of Mr. Sylvester Dana, it was voted that Mr. Shirley have opportunity to add to his report on the name "Kearsarge" any other facts that he may see fit, before the next annual meeting of the society.

Mr. J. M. Shirley, from the committee appointed to nominate officers, reported a list. The report was accepted, and the following named gentlemen were elected to the offices therein designated, as follows :

*President*—Charles H. Bell ; *Vice-Presidents*—Benjamin F. Prescott, Jonathan E. Sargent ; *Corresponding Secretary*—George G. Fogg ; *Recording Secretary*—Amos Hadley ; *Treasurer*—Samuel S. Kimball ; *Librarian*—Samuel C. Eastman ; *Publishing Committee*—William L. Foster, John J. Bell, Erastus P. Jewell ; *Standing Committee*—Joseph B. Walker, Joseph C. A. Hill, Sylvester Dana ; *Library Committee*—Joseph B. Walker, Daniel F. Secomb, James DeNormandie.

Mr. George G. Fogg, from the committee appointed to nominate new members, reported the following named persons, who, after the acceptance of the report, were unanimously elected members of the society :

Isaac W. Hammond, Frank S. Streeter, William E. Stevens, Charles C. Pearson, Rev. Daniel C. Roberts, Joseph Wentworth, Henry McFarland, Edward P. Gerould, Horatio G. Belknap, Moses R. Emerson, George E. Jenks, H. H. Metcalf, of Concord ; William T. Norris, of Danbury ; Dr. P. A. Stackpole, of Dover ; Warren Brown, of Hampton Falls ; James W. Patterson, of Hanover ; Solon A. Carter, of Keene ; E. J. Durant, of Lebanon ; Evarts W. Farr, of Littleton ; George C. Gilmore, Rev. Henry Powers, Hiram K. Slayton, of Manchester ; George E. Foster, of Milford ; George W. Todd, of Mont Vernon ; Orrin C. Moore, of Nashua ; Luther McCutchins, Nahum T. Greenwood, Daniel E. Colby, of New London ; Edward A. Jenks, of Newport ; Hiram A. Tuttle, of Pittsfield ; Robert C. Pierce, James R. May, of Portsmouth ; Henry P. Warren, of Plymouth ; Charles H. Burns, of Wilton ; Horace E. Chamberlin, of Concord.



## CORRESPONDING MEMBERS.

George M. Elliott, Lowell, Mass.; Ben. Perley Poore, Col. Eben F. Stone, Newburyport, Mass.; Hon. Charles R. Train, Rev. George E. Ellis, D. D., of Boston, Mass.; Hon. Edward A. Rollins, Philadelphia, Pa.; Hon. Angus Cameron, LaCrosse, Wis.; Gen. John B. Brown, Portland, Me.; Hon. John Wentworth, Chicago, Ill.; Hon. Edmund L. Dana, Calvin Parsons, Wilkesbarre, Pa.; William C. Crump, New London, Ct.; Capt. George Eugene Belknap, Pensacola, Fla.

Mr. J. B. Walker read a paper in memory of the late Rev. Dr. Bouton as a historian; and, on motion of Mr. G. G. Fogg, thanks were tendered to Mr. Walker for his valuable paper, and a copy of the same was requested for deposit in the archives of the society.

The society then adjourned to meet at 7:45 P. M., in the senate chamber.

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EVENING SESSION.

The society met in the senate chamber according to adjournment, Vice-President Prescott in the chair.

Mr. G. G. Fogg, from the committee to nominate new members, reported the name of Dr. John Wheeler, of Pittsfield, for a resident member of the society. The report was accepted, and Dr. John Wheeler was elected.

On motion of Mr. G. G. Fogg, it was voted that Rev. James DeNormandie be invited to prepare and read to this society a memorial notice of the late Hon. William H. Y. Hackett, at the next annual meeting.

The society then repaired to the representatives' hall, where the annual address was delivered, before a large audience, by Hon. James W. Patterson, of Hanover, his subject being, "Our Sectional Conflicts."

On motion of Mr. J. B. Walker, thanks were tendered to the orator for his able and interesting address, and a copy of the same was requested for deposit in the archives of the society.

Adjourned.

## REPORT OF THE MAJORITY OF THE COMMITTEE ON THE NAME "KEARSARGE."

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BY JOHN M. SHIRLEY, ESQ.

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This society, at its annual meeting on June 11, 1877, created a committee of three "on the name 'Kearsarge,'" with Dr. Bouton at its head, and charged them "to report such facts as they may be able to collect at a future meeting of the society, of which due notice shall be given," &c. This action was taken in my absence, without any suggestion to me that it was contemplated even; and you made me a member of that committee knowing that every minute of my time was engrossed in other fields, and that it was impracticable, if not impossible, for months, at least, for me to give the subject proper attention.

Dr. Bouton carefully examined the historical evidence then accessible upon the subject, from the Gardner map or plan down to the later acts of Commodore Winslow.

On March 19, 1878, the society held its meeting at the room of the state historian; and upon notice to all, two of the committee, Dr. Bouton and myself, were there for conference as to the path to be pursued. At that time the chairman, so far as he had not already done so, put me in full possession of his views. We then agreed upon the line of examination to be made by myself, and that he should embody his views, which he had substantially committed to paper, in the form of a report, and submit the same, with such evidence as he saw fit, to me for my examination. It soon became as apparent to me as to others that the days of my good old friend were numbered, and that he must soon "pass over the unseen river."

After the conference in March I had three interviews with the chairman in the presence of members of his family. His mind was still clear, and full of the subject.

At the last, he sorrowfully informed me that he was too ill to embody his views in the form of a report, as had been arranged between us, but that I should find them in substance in a bundle of papers, mainly the work of his own hand, at his house. His parting injunction was, to call soon at his house and get the papers, and see that his views were laid before the society. In a few days I called. He was too ill to see me, but sent the papers by the hand of his daughter, and they are now in my possession.

Had Dr. Bouton lived, he would have spoken to you here in our joint names. Under the circumstances, I have felt it my duty to decline the invitation extended to me by one of my associates, Mr. Fox, to vacate my place upon this committee; and though the language is my own, I speak to-day both for the dead chairman and myself.

The inquiry with which we are charged relates primarily to two mountains in this state,—one in the northern part of Merrimack, and the other in Carroll county. For convenience I shall refer to them in the order named. The history of the mountain in Merrimack county is necessarily interwoven with portions of the history of Massachusetts, the Masonian proprietary, the Merrimack valley, and in particular with that of what is now Franklin, Boscawen, Salisbury, Andover, Warner, Sutton, and Wilmot.

We have no means of fixing the precise age of this mountain, but it undoubtedly has existed for a long time in the same place, and has long been known by substantially the same name it now bears, though apparently this did not come to the knowledge of all the members of this committee until recently. In order that certain historical evidence may have its just weight, and no more, it must be read and weighed in the light of the history to which reference has just been made. We will summarize and condense as much as possible.

In 1641 Massachusetts extended her jurisdiction over New Hampshire under the claim that her charter gave it to her by the words "all those lands and hereditaments whatsoever which lie and be within the space of three English miles to the northward of said river called Monomack alias Merrimack, or to the northward of any and every part thereof." This line, wherever found, by the express terms of the charter extended

“to the south sea on the west part.” Such a step was not taken on the spur of the moment, but prior ones led up to it. The train had been carefully laid by preconcert and a variety of events. Settlements had been pushing beyond their former limits. Petitions for “farm lands” had flowed in. Acquaintance had been opened with the Indians and with the traders who knew of the upper Merrimack valley.

Burdet and others removed to Dover about 1636; Burdet became governor, and soon manifested his hostility to the jurisdiction of Massachusetts. He made Dover a place of refuge for the Antinomian exiles from Boston. Gov. Winthrop thereupon wrote them, intimating the intention of the Massachusetts general court “to survey the utmost limits of their patent, and make use of them.” 1 Belknap 19.

The general court, therefore, on July 6, 1638, ordered “Goodman Woodward, Mr. John Stretton, with an Indian & two others appointed by the magistrates of Ipswich, are to lay out the line, figure three miles northward of the most northernmost part of Merrimack for which they are to have 5s. a day apiece.”

On May 22, 1639, by the same authority, “Goodman Woodward was ordered to have £3 for his journey to discover the running up of the Merrimack; 10s. more was added by order of the gov. and dep. and they which went with him Tho. Houlet, Sargent Jacob, Tho. Clarke & John Manning to have 50s. apiece &c.”

On September 5, 1639, “the treasurer was ordered to pay John Gardner 20s. for witness charge & carrying Goodman Woodward, his instruments to Ipswich.”

John Gardner was undoubtedly the one who afterwards became so noted in Massachusetts as a surveyor. What we have quoted shows beyond any reasonable doubt that five men were sent “to lay out the line three miles northward of the most northernmost part of the Merrimack,” and that they did what they were sent to do, and were paid for doing it; but we are not left to inference, nor compelled to stop with the traditions, that they went to the place “three miles due north of the crotch” of the two rivers,—in a word, to the *situs* of what was so long known as Endicott’s tree,—nor to the reasons assigned by those traditions why the explorers went no farther. An



ancient and eminent historian, after reciting it at length, summarizing the preëxisting history of Massachusetts and New Hampshire, says,—“During these transactions the Massachusetts people were inquiring into the bounds of their patent. In 1639 they sent persons to find out the northermost part of Merrimack river. A line to run east from three miles of the head of the river will take in the whole of New Hampshire. They determined, therefore, that it came within their jurisdiction; and from that time they allowed plantations to be settled particularly at Hampton as well as at any part of the colony, and exercised jurisdiction over them; but they left those on the river to their liberty.” 1 Hutchinson 108.

Another, more eminent still, under the date of 1639, says,—“Rendered sanguine with respect to their future importance by the rapidity with which they had attained their present growth, the government of Massachusetts in this year set on foot an enquiry respecting the extent of their patent, and for this purpose deputed persons to explore the Merrimack, and to ascertain its northernmost point. Their charter granted them the lands within lines drawn three English miles south of Charles river, and the same distance north of the Merrimack. They construed this description as authorizing a line to be drawn due east from a point three miles north of the head of Merrimack, which soon leaves that river, and includes within Massachusetts all New Hampshire and a considerable part of Maine. Having come to this exposition of their charter, they declared New Hampshire, in which there were a few scattering habitations, to be within their jurisdiction, and proceeded to authorize settlements in that country.

“Although very early attempts had been made to colonize the northern or eastern parts of New England, those attempts had hitherto proved almost entirely unsuccessful.” 1 Marshall’s Washington 127, 128.

It is self-evident to any person who is at all familiar with the localities, that neither Goodman Woodward, John Gardner, nor any other person could have traversed the route, either by land or water, to Penacook and Franklin or “Aquedahian,” without finding themselves confronted day by day by the lone peak of what was practically the sole mountain in all the region.



It is evident from Waldron's testimony that after about 1635 he was familiar through the Indians with Penacook, both forks of the Merrimack, and since 1659, at all events, with the region about Penacook, in person. It is equally evident, from the testimony of Peter Weare, that since about 1637 he had in the same way become familiar with the same region, he "having oftentimes travelled the country," and "some of the natives always with" him; and that he had been with Indians upon a great mountain on the north side of lake "Winnipicioket."

The general court took further action on May 31, 1652. On that day it was "voted by the whole court that the extent of the line is to be from the northernmost part of the river Merrimacke & three miles more north where it is to be found, be it an hundred miles more or less from the sea, & thence upon a straight line east & west to each sea, and this to be the true interpretation of the termes of the limmitte northward graunted in the patent." 1 Prov. Pap. 200.

At the same term of the court it was also voted "for the better discovery of the north line of our pattent it is ordered by the court that Capt. Symon Willard, & Capt. Edward Johnson be appointed as commissioners to procure such artiste & other assistants as they shall judge meete to goe with them to find out the most northly part of Merrimack river, & that they be supplied with all manner of nessessaryes by the treasurer fitt for this journey, and that they use their utmost skill and abilite to take a true observation of the latitude of that place, & that they doe it with all convenient speed and make return thereof to the next session of this courte." *Ib.* 200, 201.

The artists were certainly at "Aquedahtan" on August 1, 1652. The affidavit of Sherman and Ince is as follows: "The answer of John Sherman, seargeant at Watertowne, and Jonathan Ince, student at Harvard college in Cambrig, to Capt. Symon Willard & Capt Edward Johnson, commissioners of the general court held at Boston, May 27, 1652, concerninge the latitude of the northermost part of Merrimacke river. Whereas we Joh. Sherman & Jonathan Ince, were procured by the aforesaid commissioners to take the latitude of the place above named, our answer is that Aquedahian, the name of the Merrimacke where it issues out of the lake Winnapusseakit

upon the first of August, one thowsand six hundred fifty-two, we observed & by observation found, that the latitude of the place was forty three degrees, forty minutes and twelve seconds, besides those minutes which are to be allowed for the three miles more north which run into the lake." *Ib.* 201.

The return of the commission is as follows: "Capt. Symon Willard and Cap. Edward Johnson, a committe appointed by the last generall court to procure artists to joyn with them to finde out the most northerly part of Merrimacke river, respecting the lyne of our patent, having procurred Sargeant John Sherman of Water towne, & Jonathan Ince, a student at Harvard college, as artists to goe along with them, made their retourne of what they had donne, and found viz. :

"John Sherman & Jonathan Ince on their oathes say, that at Aquedahtan, the name of the head of Merrimack, where it issues out of the lake called Winnapuseakit, vppon the 1st day of August, 1652, wee observed, and by observation found, that the latitude of the place was  $43^{\circ}$ ,  $40'$ ,  $12''$ , beside those minutes which are to be allowed for the three miles more north which run into the lake." Mass. Records, 1 Mass. Coll. Records, part 1, 109.

"The said commissioners brought in their bill of chardge, which they expended, and promised on, & to those that went that journey to finde out the most northerly part of Merrimacke, which was 28*l* 12, 10, which the court allowed, and ordered that the persons concerned should be satisfied out of the rate according as they were promised; and further doth order the treasurer to satisfy to Captajne Willard and Captajne Johnson twenty markes a pecee for their pajnes." *Ib.*

In 1665 the general court called Willard, Johnson, Waldron, and Weare into court, and put their testimony under oath on file. This, it is obvious, was because it was a matter of consequence, and not for mere idle form. Willard and Johnson testify as follows: "Whereas the generall court of Massachusetts in the yeare 1652, appointed us whose names are undersubscribed, to lay out the northern line of our patent, and now being called to give testimony of what wee did therein, to this we say as followeth: Besides our returne in the court book, p. 103, we indented with two Indians, well acquainted with

Merremak rive and the great lake to which wee went, borne & bred all their days thereupon, the one named Pontauhumi, the other Ponbakin, very intelligent as any in all those parts, as wee conceive. We covenanted with them to lead us up Merremake river so far as the river was Merremake river. When we came short of the lake about sixty miles, then came two rivers into, one from the westward of the north, & the other from the northward of the east. The westerly river to me, as I then thought, was bigger then the other; but taking notice of both these rivers, and knowing we must make use but of one, I called the Indians to informe us which was Merremake river; their answer was the river which was next unto us, that came from the easterly point which river wee followed unto the lake." 1 Prov. Pap. 289.

This brings us to the consideration of the ancient manuscript map or plan of the Merrimack valley, brought to our attention by the late Dr. A. J. Thompson, formerly of Laconia in this state, and latterly of Salem, Mass.

This plan was found among the maps and papers of Essex county, Mass. It bears no date, and, so far as ascertained, no other papers contain a distinct and unequivocal reference to it. It bears upon its face this endorsement: "Plat of Meremack river from ye see up to Wenepesoc pond, also the corses from Dunstable to Penny-cook, Jno. Gardner." Whether it is the original or a copy is immaterial. It is without doubt the earliest "plat" yet discovered of Merrimack river from its sources to its mouth. Its style of description shows it to have been prepared or drawn from data gathered at a very early period. It gives, as it were, a photograph of the river, with the lakes and mountains in the distance. It shows the line traced distinctly from Dunstable to Penacook on the east side of the river, with every angle; and the distances tabulated from angle to angle tally with each other and with the scale of miles. They are uniform; but if the tests of to-day are to be applied, overrun, in harmony with the rest of this outline map, the Suncook is put where it belongs. The "plat" itself points out what are to be treated as islands and falls. Below Penacook these islands and falls are indicated substantially as they now are. The Uncanoonucks, Massabesic lake, and Amoskeag falls

are laid down substantially as any intelligent resident of Manchester would now place them. Up to Penacook the plan seems to have been based upon actual survey. Above, the plan of the river and landmarks is such as would naturally be sketched by a practical surveyor, familiar with rough and woody countries, and having a clear conception of relative localities and distances; and this is especially true of the river itself, the lower Pemigewasset, the forks and the region west of them, and the Merrimack. The plan of Lake Winnipiseogee, the bays, or "ponds" as they are termed, and the general course of the river as traced, tend strongly to show that "the artists" could not have gone far beyond the fork at Franklin; and the probabilities are quite as strong that the observations from which this part of the plan was drawn were made from the top of Kearsarge itself. The mountain is distinctly indicated on this map, is put down as Carasaga, and, tested as before, its peculiar top is located about fifteen, instead of eleven, miles from the fork of the rivers, and apparently a few degrees south of west, which is its actual location.

The actual distance from the fork to the lake, by the present lines of travel, is about twenty miles; but following the course of the river, several miles further. By this plan, tested by the scale, it is about *thirty*, and by the "returne" of the artists in 1652, who followed the river, *sixty* miles.

The plan does not represent either the eastern or southern portions of the lake, or its general form. Every one who has seen "the bays" from Bay hill in Northfield, or is at all familiar with the localities, knows that they apparently rise one above another, like the seats in a Roman amphitheatre; that between the lake and Beaver dam are what are known as Long bay, Round bay, Great bay, Sanbornton bay, and Little bay. All these, in size or otherwise, are noticeable bodies of water,—much more so than the smaller ponds, or the islands, falls, and streams, noted down so carefully on other parts of the plan. The Long bay commences but a short distance below the Weirs. It is a marked body of water, but not the largest below the lake. Yet it is not represented at all on this plan unless located miles below the lake, and connected through all that distance by a narrow thread-stream, nor unless it is to be



treated as the largest pond below the lake. It, in fact, is in close proximity to the pond below it, but if represented on this plan it is several miles from it. In truth, the internal evidence is strong that the author of this sketch was ignorant of the existence of Long bay, and therefore never attempted to represent it at all. To assume that this part of the plan is the work of the artists of 1652, or of those who for generations came after them, is to assume either that they were never there, or that they could not see, or that they were incapable of representing or sketching with substantial accuracy what they saw; and yet what appears on the plan,—the lake, the ponds, and the general topography,—is precisely what can now be seen almost any good day, when the streams are full, from the top of Kearsarge, and what the writer has seen time and again before he ever dreamed of the existence of this plan.

The author of this sketch, too, apparently had no knowledge of the giant pine on the Pemigewasset, three miles north of the crotch, known as "Endicott's tree;" and yet this landmark of landmarks, the initial point through which the line as claimed by Massachusetts ran, was "commonly known," to use the studied language of the master spirits of the Company of Massachusetts Bay, in 1667 and before that time, as it was for at least seventy years afterwards.

Richard Hazzen, the pioneer in the settlement of the Merrimack valley, and a great surveyor, was born July 20, 1696. He graduated at Harvard college in 1717. With his brother Moses he was one of the first proprietors of "Pennycook," was active in the settlement, and made many of the early surveys there and in that region. Few men in the country were as familiar with the region as he, and very few even at this day *are* as familiar with the topography of the country, the location of the ponds and streams, and their names from below Monadnock to Lake Winnipiseogee, as was Richard Hazzen.

He surveyed the southerly line of New Hampshire, commencing March 20, 1740. In his diary, under the date of April 13, 1740-'41, he says,—“This day we measured from Hoseck river 4:2:0, which was only over one mountain.

“*Observations.* This mountain was exceeding good land, bearing beech, black birch & hemlock, some bass-wood. Over



this mountain we concluded the line would run betwixt New York government & these whenever it should be settled, and therefore nam'd it Mount Belcher that *it might be as standing a boundary as Endicutt's tree.*"

The testimony of Johnson, Willard, and others of 1665 (apparently in the nature of depositions *in perpetuum*), was taken in full view of the coming storm between Massachusetts and the royal commissioners. The course of that colony, sometimes high-handed in the extreme, had raised up many enemies who had not been idle. A variety of charges had been sent to the home office, among which was the one that the colony had put a new gloss or interpretation upon their charter, and had, in consequence, disregarded the "bound-house" limits established by themselves, and had extended their boundaries, as before stated, by usurpation. The commission to Col. Nicolls and others to settle the "differences and disputes" which had "arisen upon the lymmitts and bounds of their severall charters and jurisdictions," &c., passed the great seal April 25, 1664. Private negotiations, which rendered them measurably familiar with what had been done by the colony, began between the commissioners and the authorities of Massachusetts. On July 20, 1664, Maverick, one of the commissioners, says,—“I shall desire you to repaire to the govr. & councell, and advise them to take care how they dispose of such things as may bee out of their bounds and not fit for them to take cognizanze of, his majesty's commissioners being at length come into these parts (of whom you know me to be one).”

On July 16, 1665, the commissioners, in their reply to the governor and council, make their prime charge the usurped extension of the limits of the colony beyond the "bound-house," and suggest—"T is possible that the charter which you so much idolize may be forfeited, and it may probably be supposed that it hath been many way forfeited; untill you have cleared yourselves of those many injustices, oppressions, violences and blood, for which you are complained against, to which complaints you have refused to answer, or until you have his majesties pardon, which can neither be obtained by nor bee effectually to those who deny the king's supremacy." On July 26, 1665, the com-

missioners follow up these charges in a letter to Sir Henry Bennett, the secretary of state, devoting almost the entire paper to this usurpation by extending the limits, and urging that the charter should be taken away. In 1665 the commissioners, in their report to the king, sandwich, between the ill-treatment of the Quakers and the feasting of the Regicides on the part of Massachusetts, the charge that "By their south line they intrench upon the colonies of New-Plymouth, Rode Island and Conecticot, and on the east they have usurped Captain Mason's and Sr. Ferdinand Gorges patents and said that ye comissrs. had nothing to doe betweixt them and Mr. Gorge, because his matie. comanded them either to deliver possession to Mr. Gorge or to give his matie. reasons why they did not." They, in effect, also charge the colony with bolstering up this usurpation by maps made without actual survey. They say, "They caused at length a mapp of their territories to be made, but it was made in a chamber by direction and guess. In it they claime Fort Albany, and beyond it all the lands to the south sea."

In the letter of the king to the colony, of April 10, 1666, referring to this report, he says,—“And for the better prevention of all differences and disputes upon the bounds and limits of the several colonyes, His Majesty's pleasure is, that all determinations made by His Majesty's said commissioners with reference to the said bounds and limits may still continue to be observed, till upon a full representation of all pretences, His Majesty shall make his own final determination.”

The answer of the colony of September 6, 1676, was the handiwork of skilled and experienced men. In form it was a reply to the petition of Mason; but from the nature of the case, almost necessarily an answer to the charges of Mason made before the general court in 1652, the complaints which had been sent to the home office, and the charges of the royal commissioners in 1665, as well as the specific allegations made by Mason. After reciting the grant of 1628, and the Royal Charter of March 4, 1629, they say, “In pursuance whereof many of the said patentees and other adventurers transported themselves and estates and settled in the most known accommodable parts of those lands conatained in the said charter, neither time,

estate nor power suffering them speedily to survey the just extent of their limits. Not many years distant in time several others also of His Majesty's subjects obtained other grants and made several settlements in the more northern and eastern parts of the country, with whom for several years we had neighborly correspondence being as they supposed without the limits of our patent, amongst whom the present claimants and petitioners were. These grants partly by reason of the smallness of some of them and partly by reason of darke and involv'd and dubious expression of their limits brought the inhabitants under many entanglements and dissatisfactions among themselves which there being no settled authority to be applied to, being deserted and forsaken of all such as by virtue of said grant did claim jurisdiction over them, and had made a successless essay for the settlement of government among them proved of some continuance unto the great disquiet and disturbance of those of His Majesty's subjects that were peaceable and well disposed among them; to remedy which inconvenience they betook themselves to the way of combinations for government, but by experience found it ineffectual."

They further say,—“In this time ignorance of the northerly running of Merrimack river hindered our actual claim, and extension of government, yet at length being more fully settled, and having obtained further acquaintance and correspondence with the Indians possessing the uppermost part of that river, encouraging an adventure as also frequent solicitations from the most considerable inhabitants of these easterly parts earnestly desiring us to make proof of and ascertain our interest we employed the most approved artists that could be obtained who upon their solemn oathes made returns that upon their certain observation our northern patent line did extend so far north as to take in all those towns and places which we *now* possess.”

They then recite the voluntary submission to the government of Massachusetts of these inhabitants, commencing with “Dover Swamscot and Portsmouth Anno 1641.” They then set out the conduct of the royal commissioners; then discuss the language of their patent with reference to the “river of Merrimack” “from Winipiesioke lake to the mouth thereof;” assert that “according to the aforementioned observation so confirmed

all those eastern plantations challenged by our opponents (*ut supra*), are comprehended within our northerly line." They concede that they have not made "the exact survey of so large a grant in so hedious a wilderness possessed by an enemy." They claim that when they established the "bound house" in 1631 they did not know the uttermost extent of their right. They charge Mr. Mason "with ignorance of the coasting of the country," and allege in substance that he followed cove and harbor on the coast line. They charge that Mason's agent left the region in 1634.

Few things are more manifest than that this answer refers to a state of things existing between the establishment of the "bound house" in 1631 and the explorations in 1652. It is noticeable that in one instance the precise words used by the general court in 1639, in relation to the appointment of Goodman Woodward, are used; that the term artists here used may refer to the work of both explorations; and that in other places this answer refers beyond a doubt to the explorations of Willard, Johnson, and Ince in 1652, and the sworn returns. The connection is too obvious for further comment.

We pass by the note-books of the scouts who took in the full view of the mountain from the Unconoonock and elsewhere, but give no name, and come to the journal of Captain Samuel Willard, exhumed and brought to our attention by the praiseworthy industry of George E. Emery, formerly of Andover, N. H., but now of Lynn, Mass. In his journal of July, 1725, Willard says,—“Thursday 29 we marched north & bee west about 9 milles, and corsed several branches of Miller's river, & campt & set out scout which found where ye Indians had lived last year;—& made a canoe at ye north end of a long pond. Friday 30 we marched north in ye forenoon, and came to a pound which run into Contocook river & in ye afternoon marched N. W. in all about 12 miles, & campt at Peewunseum pound & sent out skouts 4 miles & they found 2 wigwams made last year. They also found in one of them a paddle and some squash shells which we suppose they carried from Rutland. Saturday 31 we marched 12 miles & I with 14 men campt on ye top of Wannadnack mountain\* & discovered 26

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\* See history of Ipswich,—note.



pounds, saw Pigwackett lying one point from said mountain, & Cusagec † mountain, and Winnepescockey laying N. E. from said Wannadnack; the same day we found several old signs which ye Indians had made the last year & where y't they camped when they killed ye people at Rutland as we imagine."

"Cusagec" is probably a clerical error; the word intended is probably the word used elsewhere "Cusagee."

On July 4, 1733, the proprietors of what is now Boscawen voted to pay Mr. Richard Hazen, surveyor, ten pounds for his services in taking a plan of the plantation, and the three chain men that were with said surveyor six days apiece six and thirty shillings a man for their service in assisting him, the said surveyor. They also voted that the committee,—Joseph Gerrish, William Isley, John Coffin, Tristram Little, and Joseph Noyes, they being nine days with Mr. Hazen in taking a plan of the aforesaid plantation, shall have ten shillings a day each man for their service.

Upon this plan, now on file in Boston, is a representation of an irregular hill along the northern boundary, with the inscription, "Supposed to be one of ye Kiasaga Hills." Hazen, in another note, calls the *region* "Kiasarja," and speaks of "the hills." Hazen's plan of what was afterwards "Major Steven's town," made from the survey of October 29, 1739, represents the mountain, but gives no name. Clough's survey of "Steph-enstown" gives a sketch of the mountain, with the inscription, "An exceeding mountain, called by the Indians Coowissewas-seek, and by the English, Cire-sarg."

Captain Ladd's company left Exeter July 14, 1746, in pursuit of Indian enemies. Abner Clough, his clerk, kept a journal. That shows that on July 23, 1746, they were at Contoocook. Under the head of July 24th, Clough says,—"And from there marched to a place called Contoocook pond, and scouted round about the pond, but could make no discovery, and from thence to Blackwater Falls. And one of our men says he saw an Indian, very plain, as he was some distance from the scout, as he saith. And we ranged about, but could make no further discovery, then marched over several brooks and low places, but could make no discovery, & so marched to a river called *Cur-*

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† In History of New Ipswich the name is spelled "Cusagee."



*rier Sarge river*, & found some camps supposed to be Indian camps, and there camped in the interval. And it rained hard all night. This day's march about seventeen miles."

The next day they marched to "Almsbury pond," and thence to "Contoocook Falls."

No man, with Clough's journal before him, can traverse this route, and in particular the territory between the West meeting-house in Salisbury and the crown of Apple hill in Andover, without acquiring a distinct conception, both of the localities noted by him, and what he meant by "Currier Sarge river." Before this, Clough had no acquaintance with the Kearsarge "region."

Expeditions in search of scalps were not in the habit of taking with them guide- or spelling-books, or geographical or pronouncing dictionaries. They did take guns, ammunition, and scouts or guides. Clough noted down what he saw, and, as to the names of localities, what he took from the lips of those who were with him. It is quite clear that Clough had no knowledge of the great bend which the Blackwater makes to the east, commencing near Pingry's Falls in Salisbury and taking in the whole Beech Hill region in Andover and Salisbury. It is clear that the place where they encamped was in the "interval," a mile or more below the bend, and near where the Blackwater pours apparently from the mountain, under the lofty bluff of one of the "Kearsarge hills," into the head of this "interval." What he there saw he called Currier Sarge river. He certainly could not have referred to anything else than the Blackwater, at that point. These intervals then were the intervals of the Kiah-sarge river, and a part of the Kearsarge "region," and were from six to ten miles in an air line from the intervals of the other Keya Sargg river in Sutton, on the other side of the mountain, or about fourteen miles by the now usually travelled road. When he took the first name from the lips of others, he would write it as he would the names of the persons who commonly bore it. The names "Kiah" and "Currier" were *idem sonans*. Then and for generations since, the word pronounced "Ki-ah" was indiscriminately written "Kiah," and "Currier," and that usage has continued in the vicinity of the mountain to this day, though within the last thirty or forty years it has become more

popular, and is deemed more aristocratic, to spell it and pronounce it "Currier." One of the race recently died in Andover, between ninety and one hundred years of age, who was never known by any other name than "Ki-ah," and the same is believed to be true of his ancestors, certainly so far as any knowledge of them can be gleaned, and yet the name was spelled "Kiah" and "Currier."

The decision by the highest court of the state, pronounced fifty-six years ago by Mr. Justice Woodbury, in *Tibbets v. Kiah*, 2 N. H. 557, where the defendant set up that his name was spelled "Currier," was hardly necessary to show that whether the name was spelled one way or the other was of no consequence.

Perrystown, now Sutton, was granted in 1749 by the Masonian proprietors, to Captain Obadiah Perry and sixty-two others from Haverhill, Mass., and its vicinity. The grant described the territory as "a certain tract of land, lying on the west side Ky a Sargg hill," seven and one fourth miles long and five wide.

The first family settled in the town in 1767, and no other till 1770. The first meeting of the proprietors was held at Haverhill, Mass., December 14, 1749. In 1750 the notice for the second meeting of the grantees was directed to "the proprietors to a tract of land lying on the westerly side of Ci a Sarge hill so called." On April 23, 1752, a meeting was called by a committee, and was directed "to all the proprietors of a certain tract of land granted by the proprietors of the rights of John Tufton Mason, Esq., near Ci a Sarge hill, called Perrystown." On October 29, 1755, a meeting was called, directed to "the proprietors of Perrystown, so called, lying near Chi a Sarge!" On October 10, 1761, a meeting was called by a committee, and directed to "the proprietors of Perrystown so called near Kia Sargg hill." At this meeting a committee was chosen to "prelamb" the line of said tract of land, and make return the next meeting. On November 30, 1761, the committee reported "that it is the best place for a saw-mill to be built to serve the town is to set said mill on the falls in Key a Sargg river, which falls beres southardly or southwesterly from our meeting-house lot." These falls were below Sutton South.

This mill was the first one built in town, and was known as Jones's mill. A meeting was called by a justice of the peace, on October 2, 1765, reciting that an application had been made to him by "more than one sixteenth part of the owners of Perres Town (so called) near Chya-sarge Mountain in said province." A meeting was called, as others had been, at Plaistow.

What is now known as Andover and Salisbury has been generally supposed to have been granted by the Masonian proprietary at different times, and this is true so far as the elaborate grants stuffed with details are concerned. That of Stevenstown was made October 25, 1749; that of New Bretton, November 20, 1751; but the substantial grant of both was made at the same time, and by the same vote, for on December 7, 1748, the proprietors voted "that Ebenezer Stevens, Esqr., & associates have a township equal to six miles square: beginning on the north of Contoocook in the most convenient form; without interfering with the township called No. 9 [?], as the grantors shall think proper; and that Mr. Edmund Brown & associates have a township equal to six miles square joyning upon the north side of Stevens's & associates above said tract upon the west side of Pemigewasset river upon such reservations and limitations hereafter to be agreed upon." Andover was at first called Brownstown, from Edmund Brown.

The river was made the base line for these three towns. The side lines of Boscawen were parallel, and ran fifteen degrees south of west. The south side line of Major Stevens's town ran south seventeen degrees west; but the north side line ran south fifteen degrees west, while both side lines of New Bretton ran south seventeen degrees west. The result was what might have been expected. The grantees and settlers, from a very early period until about 1816, were continually engaged in controversies in relation to the western boundaries of Boscawen, Salisbury, Andover, and New Chester, and the wedge-shaped gores between Boscawen and Salisbury and Salisbury and Andover, in which the lines of one set of grantees overlapped the others. The region at that time and long before had been known as the Kearsarge region. The grants of Boscawen, Warner, Salisbury, Andover, and Perrystown had left a large tract of territory, which naturally was called Kearsarge Gore,

from its shape. The last division in Salisbury, on the westerly end, was laid out in 1773.

The records of Salisbury afford the following light in reference to these controversies:

"4ly To see if you will vote to rais money to pay the committee that was chosen to settle the boundaries and lines with other towns and the committee that shall be chosen.

"Sept. 2, 1762."

"3ly Voted to chose a committee to rectifiee the bounds at the of said town voted to messure the north line to see if it is long annuff.

"4ly Voted to chose three men for sd. committee and if they shall so need to tak one more at the township.

"November 7, 1763 [1762?]"

"2ly To see if they will vote down both the committees that are ale ready chosen for to pramblate the line round the town or vote which of them shall do the work.

"Mar. 2, 1762."

"2ly Voted to chose a committee to joyn with any other committees that shall be chosen by other towns ajoyning to sd. Stevens town in settling the boundries and lines between sd. Stevens town & other towns.

"3ly Voted Deacon Elisha Sweet, Peter Sanborn, Esqr., and Coll. Ebenezer Stevens are chosen a committee to settle the boundries and lines as before purposed with other town joyning to sd. Stevens town—&c.—

"May 13, 1762."

"Province of: }  
New Hampr.: } We the subscribers being chosen a committee by the proprietors of each township here after named to settle the boundaries & lines between Stevens town and New Briton (so called) have as follows viz we have began at a pine tree standing on a great rock in the bank of Pemigawasset river which is the boundary between each town as aforesaid running west about seventeen degrees south about nine miles to beach tree marked on the southerly side with letter S and on the

northerly side with the letter B with many other marks thereon witness our hands

"Stevens town

"Dated October the first, 1762.

Elisha Sweet  
Peter Sanborn  
Ebenr. Stevens  
Natha. Healey  
John Sanborn  
Jeremiah Lane"

The stump of this beech tree is undoubtedly the one referred to by the legislative committee, in 1816, in their report establishing the line between Kearsarge Gore and Salisbury.

"3ly To see what you will allow the committee pr. day that went to mesure the north line from Merimak river to the head and the south line of said town

"Jany 26, 1764."

"4ly Voted to give the committee that went to mesure the north line and south line of Stevens town four pounds old tenor pr. day.

"Feb. 6, 1764."

"2ly To chose a committee to pramblat the lines with other towns that adjoyn to sd. Stevens town and settle the bounds of sd. township whare the bounds is not settled.

"March 19, 1768."

"2ly Voted Ebenr Stevens Joshua Woodman Capt. John Webster are chosen a commitee to pramblate the lines with other towns and settel bounds whare they are not settled.

"April 7, 1768."

"2ly To see what money the proprietors will rais to pay for building the bridge over Blackwater river and clear the Senter road.

"Sept. 1, 1768."

"3ly To chose a commitee to run the line with New Almsbury and settle the south-west bound of said Salisbury as that is not settled

"May 12, 1770."

"7ly Voted the assessors be a committee to examine & desire the clerk to enter the votes & returns &c. in the proprietors



book in order that the book may be removed another year to the town of Salisbury. If so voted that Ensign Gale Mr. Nathaniel Maloon Joseph Been John Colings & Capt John Webster be a committee to run the line with New Almsbury and settle the bounds at the south west corner of Salisbury.

“May 30, 1770.”

“5thly To see if the proprietors will chuse a committee to settle the boundaries of said Salisbury with Col. Henry Gerrish who is impowered by the grantors to settle the same.

“Dec. 22, 1780.”

“8thly Voted to chuse a committee of three men to join with Col Henry Gerrish to perfix the boundaries at the western end of said Salisbury provided he comes with authority from the grantors to settle and perfix the same. 9thly Capt. John Webster, Dn. John Collins and Joseph Bean Esqr. chosen for the above committee.

“10thly Voted to adjourn this meeting till the last Tuesday in August, to the house of Capt. Matthew Pettingill in the afternoon of sd. day. August 28th met on adjournment and voted to adjourn sd. meeting to the second Tuesday in October. next at the house of Capt. Matthew Pettengill at one o'clock in the afternoon of said accordingly sd. meeting is adjourned to ad. time & place. Tuesday 9th of October 1781, met on adjournment.

“Voted to receive the report of the committee before chosen, which is as follows, (viz.) this may certify to the gentlemen proprietors of Salisbury that Col. Gerrish came to us with a power of attorney that we esteem sufficient to settle the boundaries at the western end of the township of Salisbury, & as it appeareth to us that there is a mistake in the grantors of the charter of Salisbury & Andover interfering one upon the other & also a mistake in the grantees in laying out their lots beyond the limits of nine miles from Merrimack river; we think it best to give up our claim to the land north of the seventeen degrees on the north upon their confirming to us as far westerly as to take in all our land that is lotted, which we have encouragement from sd. Gerrish upon a straight line.

“October 9, 1781.”

"3. To see what methods the proprietors will take to settle the boundaries and lines at the westerly end of sd. township.

"Jany. 17, 1801.

"2ndly. Voted to accept the report of the committee chosen the 5th of February last to ascertain the north corner bounds of said town, which report was verbally that a line beginning at the southwest corner bound of said town running north one degree west to Andover line be the head or west line of said town.

"3rdly Voted that John C. Gale inform Col. Henry Gerish who is agent for the proprietors of the gore of the proceedings of this meeting.

"4thly Voted to adjourn this meeting to the first Monday in June next at 3 o'clock P. M. to meet at this place.

"May 4, 1801."

"Your committee report as follows—we have ascertained the northwest corner bounds of Salisbury by running from the southwest corner bounds of said town north one degree west between Salisbury and Kearsarge Gore.

"May 28, 1801."

On June 11, 1753, the grantees of New Britain under an article "to receive the return of the committee chosen to lay out said tract of land and to chose a committee to make return of the plan of the laying out said tract of land to the grantors and to agree with the grantors when to have the lotts drawn, 'voted' 4thly James Carrick, Amos Dwinell, Richard Smith as a committee \* \* \* to return the plan of the above said tract of land as it is laid out to the grantors and to agree with said grantors when to have the lott drawn."

This plan, so returned in 1753 to the Masonian proprietary, was from a survey by Williambrown Clough. It showed the mountain wooded to the top, and says in a note,—“Cier Sarge, a mountain large, by ye Indens Cowissewaschook!” This, with a change in spelling, is a restatement of what he had already set down a few years before, on a plan of Bakerstown, or Stephenstown. A copy of this plan, carefully compared with the original, is now in the town-house at Andover.

There was a dispute as to whether Andover or New Chester

owned a region which was afterwards claimed by Kearsarge Gore, and now known as Eagle pond. At a meeting held May 17, 1763, action was taken under an article "to choose a committee to run out said township anew & number every lot agreeable to the plan formerly exhibited & accepted by the grantors, and also to settle the bounds betwixt said township and New Chester." Two committees were chosen. The committee to establish the lines between Andover and New Chester made their report, dated "Boscawen June 10, 1763," to a meeting held September 5, 1763. The committee of five, chosen "to run out said township anew and bound and number every lot agreeable to the plan formerly exhibited and accepted by the grantors," made an elaborate report, "dated at Hampton Falls, Novembr. 18th, 1763," to the meeting held November 21, 1763. In this report they recite at length their labors and difficulties, what they were able to ascertain in relation to the "number trees" and lines run out years before, and say that they "thought proper (as the southerly side line was not run out the first ten miles) to go first on said line before we go any farther here which we did; and ran it out the full ten miles, spotting as we went after we left Stevens town to a spruce tree standing on *Kiaserge* mountain which tree we spotted for a corner bound and marked with sundry letters." The report was accepted, and the bills of the committee ordered to be paid. At the meeting on November 3, 1773, a committee was chosen "to join the selectmen of Salisbury if they see fit to perambulate the line between the said township of Salisbury and the township of New Brittain as formerly agreed upon run, spotted and bounded by a committee of said townships and return thereof made excepted and recorded." They also voted that the committee should make return within four weeks, and that they should be permitted to "hire a surveyor to perambulate the line."

On April 29, 1786, the perambulation of the line between the two towns was reported and recorded.

On April 2, 1788, the selectmen reported as follows: "Laid out by the subscribers in Andover, as follows, viz: begining at the road that was laid out by order of cort from Dartmoth Colledg to Boscawen a little above where John Rowe now

lives at the parth that leads to *Kiresarge Gore* and following said parth where it is now cleared and trod over Blackwater river so called and as far as Aaron Selley's house three rods in width to be a public highway forever."

As we have already seen, the territory which embraced the mountain proper, the Kearsarge hills, river, ponds, and meadows on the south, and the Kearsarge hill, river, meadows, and falls on the west, was of a considerable extent. The limits must have been somewhat indefinite, like those of Dunstable and Penacook in Waldron's day; but, like each of them, this region must have covered not far from two hundred square miles. The grant of the townships about this mountain to which we have already referred narrowed these limits to Kearsarge Gore. The residue of the plans and maps may be considered in connection with the history of that Gore.

Mitchell and Hazzen's map gives the mountain in Merrimack county in the proper place as "Kyasage Mt." A copy of this map is in the state-house. It was purchased in London for the late W. F. Goodwin and myself. Upon its face, among other things, appears the following:

"Observations on which this map is grounded:"

"New Hampshire from the surveys of Mitchell and Hazzen in 1750, especially the last."

Line 44° 30' north "According to Hazzen's Survey, this Line about 30 Miles distant from Pigwacket R. cuts the East end of the White Hills."

This map shows Pigwacket river and the "Sawokotuk" or "Sawko" river, and "Pigwacket Hills," mainly on the New Hampshire side of the line.

On December 24, 1770, Governor Wentworth, without success, recommended the assembly to accept the "offer" of "Capt. Holland the surveyor general of the sea cost of the northern district of America," "to survey as much of the province as can be done before the season permitts his surveying on the sea cost." 7 Prov. Pap. 264.

On January 23, 1772, the governor, in pursuance of the royal command, "You shall likewise take care that a general plan be made of all our said province and of each county with the several plantations & fortifications on it, and that an exact



map or maps thereof be transmitted to our commissioners for trade & plantation," charged the assembly to "make provisions for its execution which may be done this winter," and on January 4, 1772, the assembly voted "that the message sent by the governor relative to the survey of this province proposed to be made by Capt. Holland be complied with," and voted to give him the sum of one hundred guineas. The surveys were made in 1773 and 1774, but the map was not published until March 1, 1784, in London. This society possesses a copy of this map. Upon that map the Merrimack County mountain appears as "Kyar Sarga Mt., by the Indians Cowissewaschook." Whether Williambrown Clough was one of Holland's assistants does not as yet appear, but the internal evidence is strong that the name was taken from one of his plans.

This was the first official map of the province. The Chatham-Bartlett mountain appears upon it without a name. This is strong evidence that neither Holland nor any of his assistants had any "information that it was known as 'Kiarsarge,'" or any other form of the word, in 1774, or even down to the publication in 1784.

In 1791 Dr. Belknap gives both mountains as "Kyarsarge," but this is the first instance in which the Carroll County mountain is so termed. It is evident that Dr. Belknap got his information as late as July, 1784, when, with a party of seven, he visited the White hills. They left Dover on July 20. Having passed through Eaton and Conway, they encamped at the foot of the mountains on July 23. On July 24, Dr. Cutler, Rev. Mr. Little, and Col. Whipple succeeded in ascending Mt. Washington, which they found buried in clouds; but Belknap and others, after having gone part way, were obliged to give up. On July 27 Dr. Belknap preached in Whipple's barn to five or six families, at what was called "Mr. Whipple's plantation"—the first sermon ever preached there. This was at "Cherry mountain." He reached home July 31, 1784. He says that he copied from a plan of Whipple's, who lived at what is now Jefferson; but Belknap changed the spelling, for upon Whipple's sketch it is Kyasarge. This is the plan to which Belknap refers in his letter of August 19, 1784. Life of Belknap 102-104; 3 Belknap's History 37-40.



It is noticeable that Belknap, in the same volume, gives the census of Kearsarge Gore in 1790 as 103, and spells it "Kysarge."

In 1775 Kearsarge Gore was granted by the Masonian proprietary to Jonas Minot, Matthew Thornton, and others. 3 Moore's His. Col. 173; Genealogy of the Minot Family.

Minot was the son of Samuel Minot, of Concord, Mass., one of the grantees of "Alexandria" proper and "Alexandria Addition," now New London, and an extensive land-owner in New Hampshire. He died March 20, 1813, at the age of seventy-eight.

The plan made by Henry Gerrish, who was always a prominent man, and for a quarter of a century the legal representative of important interests in the Gore, is of "Kaysarge Gore," near "Kya Sarge." It also sets forth in a note that "Kyah Sarge mountain contains 1459 acres." The grant of April 7, 1779, was of Kiersarge Gore. In 1781 the territory Kyah Sarge Gore was divided among the grantees by lot.

The precise time when the Gore became entitled to town privileges has not yet been absolutely determined. It was probably as early as 1783. We know that the Gore at that time was assigned its share of the public burdens.

In June, 1784, the legislative journals show what towns and places were entitled to representatives, and when they were in fact represented, and by whom. On this list in one class appear "New London, Andover, *and* Gore." Capt. Francis Walker represented Fishersfield, Perrystown, and Warner, as another class upon the same list.

John Moffat died January 21, 1786. He was a land-owner in about thirty towns and places in New Hampshire, and owned Nos. 33, 43, and 48 of the hundred-acre lots in "Kysarge Gore." Prior to his death, owing to his relations with Moffat, Whipple had become very familiar with these lands, and upon Moffat's death became directly interested. The probate court ordered the sale of these lots. A schedule thereof is still in existence. That decree was appealed from, and finally affirmed by the superior court on the fourth Tuesday of April, 1789; and the final proceedings were had under that and the order of the probate court of May 20, 1789. Moffat's inter-

ests were largely identified with those of Minot. See Whipple-Moffat Papers.

The act of June 16, 1791, included "Kearsarge" in Hillsborough county.

The legislative journal of June 14, 1792, says,—“Upon reading and considering the petition of James Flanders, Esquire, in behalf of the inhabitants of Kyar Searge Gore, and the report of a committee thereon, and that the petitioners be heard thereon before the general court on the second Tuesday of their next session, and that in the meantime the petitioners cause that the selectmen of Salisbury, Andover and New London be served with a copy of petition and order of notice,” &c.

The act of December 27, 1792, says,—“And the companies in the towns of Boscawen, Salisbury, Andover, New London, and Kearsarge Gore, shall form a first battalion,” &c.

The legislative journal of June 13, 1793, shows that leave was granted to bring in a bill at the hearing upon the petition to disannex lots Nos. 19, 20, 21, 22, 23, 24, and 25 from Kearsarge Gore, and to annex them to New London.

See, also, proceedings of June 17, 1793, and upon the second reading of the bill; and also of June 18, 1793.

The act passed June 19, 1793.

The journal for June 20, 1793, shows a resolve instructing the selectmen of New London to add to the inventory of that town that of the lots disannexed from “Kearsarge Gore.”

The journal of the house for Feb. 5, 1794, shows that the inventory of “Kearsarge Gore” “stand at £20-7-8, amount of valuation.”

On February 12, 1794, the house proceeded to consider the alterations made in the inventories by the senate, but “Kearsarge Gore” was left “£20, 7, 8, as agreed to.”

On February 14, 1794, “the senate returned the vote, \* \* with information that they had concurred with the house on the town of \* \* \* Kearsarge Gore.”

On February 17, 1794, “the following vote came down from the honorable senate for concurrence; Kearsarge Gore and Mason to stand as passed by the house.”

In the house, on December 26, 1794, a joint committee was filled “to consider of the petition of the selectmen of Kearsarge Gore.”

The legislative journal of June 17, 1795, shows an act entitled "An act authorizing the collection of taxes in Kearsarge Gore."

The senate journal of June 15, 1797, shows "a vote for a committee to join such of the senate as they may appoint to consider the petitions from the towns of Sutton, New London, Bradford, and 'Kearsarge Gore.'"

The senate journal of December 8, 1797, shows a resolve that "the selectmen or the major part of them at the charge of the town parish or place where they belong to, shall take an inventory," &c., naming among others "Keasarge Gora."

The senate journal of December 21, 1797, shows that the resolution for the taking of the new inventory, &c., be sent to the post-office at Concord, for "Keasearge Gore."

The survey of "Kearsarge Gore" for Dr. Carrigan's map was made in 1805 by Ephraim Eastman, of Andover.

Eastman was born in Deerfield, N. H., in 1768. Kearsarge was a familiar object to him almost from his babyhood. He died in the immediate vicinity of the mountain under whose shadow he had lived for more than half a century. He was a man of more than ordinary ability; was a school-teacher in his younger days, and had considerable culture and refinement for his times, and was a practical surveyor from his boyhood almost to the time of his death. He was exceedingly familiar with the boundaries of townships, the disputes about them, their history and traditions. His plan shows, aside from the important portion of the Gore transferred to New London in 1793, that its width, as claimed by that town, was between two and three miles at the narrowest point, about four miles wide in the centre, and between nine and ten miles in length, reckoning from the extreme points.

Wilmot was created June 18, 1807, and yet in 1810 the remnant of the Gore had one hundred and fifty-two inhabitants. Eastman's survey showed that there was a dispute as to the location of the boundary line between Salisbury and the "Gore," as there had been for half a century.

Other surveys were made for a like purpose. In 1805 and 1806, Joshua Lane, long known as "Master Lane," surveyed the territory known as New Hampton, the region then known as

New Chester, which included that portion of the present part of Wilmot known as New Canada, what is now Andover, Salisbury, Franklin, Webster, Boscawen, Canterbury, Northfield, Tilton, and Sanbornton.

Lane's plans are now in the state-house. His work speaks for itself. It needs no bush. He locates the mountain where it is, and gives it its proper name. Lane had exceptional opportunities for knowing the facts. He came from a line of surveyors who probably, from their kinship with the dominant and perhaps controlling spirits of the early proprietors, had been employed by them in the surveys of New Britain from the earliest period.

On April 1, 1811, under a proper article in the warrant, the town of Salisbury "voted that Andrew Bowers, Esq., & Lieut. Benjamin Pettengill, of said Salisbury, be a committee to attend in the half of the proprietors of said town to the petition of Mr. Abner Watkins, on the first Tuesday of the next session of the general court." Watkins was then, as he had been for a long time, one of the leading citizens of the Gore.

On May 18, 1811, under articles "to see if the town will agree to make any defence against Abram Watkins respecting the line between this town and Kearsarge Goar," and "to see what method the town will take to make such defence if they should think proper to make any," Salisbury voted that "Col. John E. Gale be agent for the town of Salisbury to act with a committee of the proprietors of said town against Abner Watkins of 'Kearsarge Goar,' respecting his petition to the genl. court for an alteration of the jurisdictional line between said Salisbury and said Goar."

On September 23, 1815, under an article "to see what method or order the town shall take, respecting the line between the said town of Salisbury and Keiarsarge Gore which line is now submitted to a committee chosen by the general court of this state," the town of Salisbury voted "to take the requisite steps to protect their interests."

On May 18, 1816, under an article "to see what the town will do in regard to the report of the committee of the general court relating to the line between this town and Kearsarge Gore, which report is to be made at the next session of the gen-



eral court," the town chose "Andrew Bowers, Esquire, agent for the town to act with the representative at the general court, in remonstrating against the acceptance of the report of a committee to establish a line between this town and Kearsarge Gore, and attend to all other business respecting said line which they shall judge necessary for the benefit of the town."

The senate journal of June 25, 1816, shows "a vote granting a day of hearing on the petition of Jonathan Watkins and others, praying that his land in Kearsarge Gore be annexed to the town of Warner."

On June 26, 1816, the same journal gives the report of the legislative committee, cutting off one hundred and eighty-four rods claimed by Salisbury next to the Gore, and giving Salisbury two hundred and eighteen rods west of the bound established in 1762.

"The committee appointed at the last session, to examine and establish the disputed line between the towns of Salisbury and Kearsarge Gore, made the following report—

"The within named committee, having notified the selectmen of Salisbury and Kearsarge Gore, met and fully heard them; and that in their opinion the line hereafter described is the true division and ought to be established as the line of jurisdiction between said towns, viz.—beginning at a large rock on the westerly side of the highway on Warner line, opposite Thaddeus Hardy's house; thence running north five degrees east about five miles to a beach stump, at the northerly end of William Pingree's land, formerly John Wentworth's thirty acre lot numbered fifty-four, by Andover line, it being about two rods southwesterly from the bound between land of Jonathan Brown and land of Moses Brown in said Andover, which stump was heretofore known by the name of the middle northwest corner bound of Salisbury, and is situate one hundred and eighty-four rods easterly of the birch tree entwining a spruce tree which Salisbury claims as their northwest corner bound; and two hundred and eighteen rods westerly of the beach which the proprietors of Salisbury marked for their first north west corner bound, which line was satisfactorily proved to the committee to have been the true westerly line of Salisbury, at the time of its incorporation.—And they further report, determine and



award that the town of Salisbury pay for the services of the committee, their assistants and expenses, taxed at fifty-one dollars.

‘ John Osgood Ballard,  
‘ Joseph Bartlett,  
‘ John Smith.’ ”

A vote accepting said report was brought up, read, and concurred. Senate Journal, June 26, 1816.

The following petition, understood to be the work of that legal antiquary, Moses Eastman, Esq., for years the clerk of court, and the opinion of that eminent lawyer, Parker Noyes, upon the effect of the legislative line, are worthy of special note :

*“ To the Honorable the Senate & House of Representatives of the State of New Hampshire in General Court convened :*

“ Humbly show the subscribers, inhabitants of the town of Salisbury in the county of Hillsborough that we are owners of different lots of land in that part of said Salisbury which adjoins Kearsarge Gore, which lots have ever, when taxed, been taxed in Salisbury & in no other town or place from the first settlement of the country to this day.

“ We have been informed that the report of a committee appointed by the general court to establish a line of jurisdiction between Salisbury & Kearsarge Gore was at the last June session received & accepted by the general court which report drew a new line of jurisdiction, whereby if that line be established the aforesaid lands will be transferred to the jurisdiction of & be liable to be taxed in Kearsarge Gore, which will occasion to us great inconvenience.

“ With all due respect for the respectable gentlemen who composed that committee, we think the report was made from an imperfect view of the subject ; & that if its merits had been fully laid open to the view of the general court, the report would not have been accepted.

“ Wherefore, we pray that the vote accepting the said report may be reconsidered or that such order may be taken on the subject as the wisdom of the general court shall think the case requires.

“ To show that our opinion of that report is not without foundation, we beg leave to submit the following facts & remarks.

“ The proprietary grant of the tract of land now called Salisbury, formerly called Stevenstown, was made in the year 1749 by the Masonian proprietors who were at the same time the owners of the tract of land called Kearsarge Gore.

“ The grantees of Stevenstown, soon after the grant, divided part & only part of the land granted to them into lots, leaving a considerable tract undivided.

“ In the year 1773 they laid out the thirty acre lots at the west end of the grant, adjoining Kearsarge Gore and then ran, it is presumed for the first time, the west end line of their grant, & marked trees to show the line.

“ The thirty acre lots laid out in 1773 up to this line were immediately after drawn among the grantees, & some of the lots were drawn to the reserved rights of the grantors, the Masonian proprietors, who have ever since claimed & held those lots accordingly.

“ It is believed that the Masonian proprietors by taking those lots in 1773 & claiming & holding them ever since, in severalty as their reserved right in the grant of Steventown did then recognize the right of the proprietors of Steventown to the land as far westward as that line.

“ At that time Kearsarge Gore was held by the Masonian proprietors in common ; & was not laid out into lots until 1782. In the year 1782 Col. Henry Gerish as the agent & by the direction of the Masonian proprietors, surveyed and laid out into lots the tract of land called Kearsarge Gore, & bounded on the aforesaid line the lots adjoining Salisbury. The survey & plan of the lots thus made by Gerish, was adopted by the Masonian proprietors, & has ever since been recognized by them.

“ At a subsequent period since question being made respecting the bounds between Salisbury & Kearsarge Gore the Masonian proprietors appointed the said Henry Gerish their agent, to join with a committee of the proprietors of Salisbury to settle the question & determine the proprietary line between Salisbury & Kearsarge Gore.

“ In the year 1801 the said Gerish on the part of the Masonians, & the said committee of the proprietors of Salisbury went

together to the bound which has ever been known & recognized as the south west corner bound of Salisbury, & from thence ran northward the course directed by the Masonians & on the aforesaid line which was run & marked in 1773 to the north line of Salisbury & there made a bound between Salisbury & Kearsarge Gore.

“ Thus the aforesaid line run in 1773 was recognized by the Masonian proprietors in 1773 & in 1782 & again in 1801 was settled & confirmed by the parties.

“ The limits of the grant from the Masonian proprietors, being thus settled by those who had the right so to do, it is believed that the proprietors of Salisbury & of Kearsarge Gore, are both bound thereby.

“ The description of the town of Salisbury in the act of incorporation is the same as in the Masonian grant & was probably copied from it.

“ The proprietors of Salisbury have ever since claimed & held the land westward to the aforesaid line run in 1773 & the town of Salisbury has ever held jurisdiction to the same line.

“ The aforesaid report takes from Salisbury a tract of land of a triangular form four miles in length one hundred & eighty-four rods wide at the north end, running to a point at the south & lying east of the aforesaid line.

“ The inconvenience which will be the consequence of cutting the lots by this new line of jurisdiction, & transferring part of a lot to Kearsarge Gore & leaving part in Salisbury, we trust will be deemed a sufficient apology for this our request.

“ Novr. 1816.

Wd. Elisabeth Straw.

James B. Straw

Stephen S. Straw

Samuel Eaton

Wm. Pingry

James Johnson

Thomas Chase

Ebenr. Johnson

Moses Greeley”

This had upon the back the following indorsement :

“A petition of a number of the inhabitants of Salisbury praying for a reconsideration of a vote establishing the jurisdictional line between the towns of Salisbury & Kearsarge Gore.”

### OPINION OF PARKER NOYES.

“QUESTIONS BY COMMITTEE OF PROPS. OF SALISBURY  
ANSWERED.

BENJ. LITTLE }  
                  & } ESQRS.  
A. BOWERS }

“*Question 1.* Do Salisbury by assuming a line beyond what their charter contained give them a right to the soil?

“*Answer.* If the proprietors of Salisbury in making the bounds of their grant did go beyond the exact measure mentioned in the grant,—and the grantors, knowing the same, acquiesced for a time long enough to gain title by possession, or in any way recognized those bounds, as bounds, the proprietors of Salisbury will hold to those bounds.

“If the grantors appointed an agent with powers to *run the line & fix the bounds*,—& he with the props. of Salisbury did run the line & fix the bounds, the line & bounds so made are conclusive on both parties, unless the agent exceeded his powers.

“The neglect of the agent to report his doings to his employers, or their neglect to record the same will not vacate what was done; but the same may be proved by the testimony of witnesses.

“If the props. of the Gore seeing the bounds which Salisbury had made to their grant, and the occupation of the land to those bounds; neglected for more than 20 years to make an entry on the land, and have brought no action to try the title, it is believed that such neglect will amount to such an acquiescence as will put an end to the claim of the props. of the Gore.

“*Question 2nd.* Will the props. of the Gore hold the land west of the line as lately established by the general court’s committee?

“*Answer.* The doings of that committee have no effect on the right of soil. They have no more effect on the question

between the two parties than the flying of a bird thro. the air would have.

“The gen. court have not power, & could not give power to their committee, to determine the bounds of the land, & thereby bind the two sets of proprietors in respect of the right of soil.

“The right of soil remains & ever will remain precisely the same as if that committee had never been appointed.

“The *proprietors of Salisbury* are one body. The *town of Salisbury as a corporation* is another. The rights of these two bodies are as distinct, as the rights of any two persons can be.

“The only effect that the doings of that committee can have, *if they have even so much*, is to determine the line of the jurisdiction of the town of Salisbury as a corporation.

“The right of the props. of Salisbury to the soil has no connection with, nor dependence on, the line of jurisdiction which the gen. court has assigned or may assign to the town of Salisbury.

“May 6, 1818.

PARKER NOYES.”

“SALISBURY, May 8, 1818.

“*A. Bowers, Esq.*

“SIR I have endeavored to answer the questions put by the committee of the props. of Salisbury & by Mr. Pettingill & you.

“If the answers are not sufficiently explicit, I will at any time add anything I can to make them more so.

“I am respectfully your obedt servant,

“PARKER NOYES.”

This opinion is contained in a letter directed on the back to “Andrew Bowers, Esq., Salisbury.”

The senate journal of June 20, 1817, shows that the inhabitants of “Kearsarge Gore,” praying to be annexed to Warner, were granted a hearing, to be had on the first Tuesday of the next session of the general court, and the selectmen of Warner were to be served with a notice thereof.

On June 13, 1818, “Kearsarge Gore” was annexed to the town of Warner.



It is well known to those who saw the books in the hands of Watkins and others at an early day that there was an ancient plan of the Gore and two volumes of records. For this Col. John A. Hardy, long a prominent man in the Gore, is the abundant authority. These were in existence at a comparatively recent period, and may be now. The only record which has been found commences with a call for a meeting dated August 1, 1794, by James Flanders, a justice of the peace, which recited that "application being made to me by a number of the inhabitants of Kearsarge Gore in said county, setting forth that they labored under many difficultys, on account of not having a legal meeting to appoint public officers, praying that a warrant might issue forth at purpos these are," &c.

The application, as shown by this warrant, was similar to those in other towns where the organization had failed by neglect to call a meeting, or otherwise. The records from this time forth are regular, and the name is invariably spelled "Kearsarge Gore."

Carrigain's map gives, in Merrimack county, "Kearsarge Mt." and "Kearsarge Gore," with its census, in 1810, 152; and in Carroll county, "Pigwacket formerly Kiarsarge."

This is the first official map of the state, and, taking into consideration the facilities then to be had, was a work of great labor, difficulty, and responsibility. It began in 1806, and was completed in 1816. The legislature did not require Carrigain, if some highway or other surveyor located San Francisco at Portsmouth or Mt. Diablo at Pigwacket, to treat the lie as historic truth. It made him a general in command, not a subaltern.

It was but natural that an assault by innuendo and insinuations upon Carrigain, his map, and the state authorities who selected him and gave him their confidence and support, should be made in aid of an attempt to repeal history. Carrigain may have had his failings, flowing from his social nature—"Let him that is without sin cast the first stone"—but the fact remains, that he was selected, by those who knew him best and were the most competent to judge, as the fittest man for such a difficult and delicate task; and, amid religious contentions and the tempest of political changes, he was continued at his post

under Govs. John Langdon, Jeremiah Smith, John Taylor Gilman, and William Plumer.

In 1816, a legislative committee reported "that the said Carrigain has completed the map of New Hampshire with great accuracy, and in a style of superior elegance." Governor Plumer, in his message of June 5, 1817, says,—“As Mr. Carrigain acting under the authority of the legislature has recently furnished the state at great expense with a map of New Hampshire which is not only elegant but splendid, permit me to suggest for your inquiry whether we have made him such a compensation as is adequate to his services and expenditures; or such as will entitle us in the language of the constitution to be considered as the patrons of science and the useful arts. *From a careful investigation of the subject*, I think it my duty to recommend the case to your favorable consideration.”

The committee to whom this recommendation was referred made an elaborate and exhaustive report in favor of Carrigain, and the result was, the legislature unanimously adopted a resolution in favor of Carrigain, indorsing the "map" as one that "appears to be executed with accuracy and much elegance."

The governor whose recommendation was thus endorsed by the legislative department, was the same "unerring judge of the heads and hearts of men," to use the language of an eminent attorney-general of this state, who put Levi Woodbury upon the bench of our highest court.

Carrigain's map needs no higher or more authoritative commendation.

From the evidence thus far, the inevitable conclusions are :

1. That between the years 1638 and 1667 (besides the information derived from Indians, Indian traders, and scouts), survey parties with guides and artists, under the authority of the colony of Massachusetts Bay, visited the region now known as the head of the Merrimack river, for the purpose of ascertaining the northerly running of that river, and the "northernmost" boundaries of the patent of that colony; that the data for the Gardner Plat was gathered in this way; that Endicott's tree on the Pemigewasset was established as the initial point through which the line of that patent ran, and was "commonly known" at some time prior to 1767; and that the Gardner Plat, upon

which the mountain "Carasaga" (which we call Kearsarge), with the head of the Merrimack, and the forks of the Winnipiseogee and Pemigewasset, appear relatively in their proper places, was prepared before 1667.

2. That more than a hundred and fifty years ago, the region westerly from the head of the Merrimack, northerly from the Uncanoonocks, easterly from Monadnock, was the haunt of the Indians on the war-path, and of their pursuers.

3. That for a long time, commencing about one hundred and fifty years ago, the region about the Kearsarge mountain and hills was called Kearsarge.

4. That commencing at about the same time, the range of hills beginning near what is now Webster, and running northerly for miles, was known as the Kearsarge *hills*.

5. That at least a hundred and thirty years ago, the range in Sutton running westerly from the notch-pointed hill or mountain was known as Kearsarge hill, and called such in official records.

6. That more than a hundred and thirty years ago, the stream south-east of the mountain was known as "Kiah [Currier] Sarge" river.

7. That at least one hundred and eighteen years ago, the stream which pours from New London through Sutton south was known by the proprietary in Haverhill, Mass., and in Plaistow in this state, and in their vicinity, as "Key a Sargg river."

8. That after the grants of what is now substantially Warner, Webster, Salisbury, Andover, and Sutton, and the partial settlement of some of them, a township was left which included the mountain proper and some portion of the hills, and took from its shape the name of "Kearsarge Gore;" that as such it was granted by the Masonian proprietary in 1775; that as early as 1783 it was charged with its share of the public burdens, and about that time became by law entitled to town privileges—in a word, was a town, and so continued, notwithstanding the dismemberment by which a valuable portion was annexed to New London in 1793, and by the creation of Wilmot in 1807, until it was absorbed by Warner in 1818.

9. That at most until August, 1784, and, so far as any map,

plan, or any other public document is concerned, until the publication of Belknap's History in 1791, no other region was ever known as Kearsarge, no other hill or hills as Kearsarge, no other brooks, streams, ponds, lakes, or rivers as Kearsarge: no other mountain was anywhere known as Kearsarge, and no other town or place has ever borne that name.

10. That the name Kearsarge, however spelled, has belonged as much to the Merrimack county mountain as the Winnipiseogee to that river and lake, the Massabesic to that pond or lake, the Amoskeag to the falls, or the Uncanoonocks to the hills bearing that name, *and has for more than two hundred years.*

We now come to the mountain in Carroll county. The name ascribed to it by Dr. Belknap, whether rightly or wrongly, was the same by which the region, the hills, the rivers, and the mountain in Merrimack county had long been known, and must have originally had the same meaning.

The question whether the name so applied to the Chatham peak was an original, or in some sense a transferred local one, must be determined by the weight of probabilities. Perhaps we may best summarize the facts, and consider the question in the following order:

1. There is no evidence that the Chatham mountain was ever known or called by a name having any resemblance to Kearsarge before 1784. If that was its true name, no reason can be suggested why it should not have been so called prior to that time. Neither the Masonian nor any other grant, the curve line nor any other, prevented the Indians who had lived about it, or their prisoners, or the French, or the trappers, scouts, guides, or Indian traders, from calling that mountain Kearsarge, or from its being known as such from 1642 to 1784,—a period of nearly one hundred and fifty years; while the presumption of fact is, that if this name belonged to it, some of these or some one else would have found it out in that time.

2. Putting the matter in the strongest light for that mountain, it had "no name" for generations after the one in Merrimack possessed the name by which it was commonly known.

3. Not a particle of evidence has yet been produced or even



suggested, which affords the slightest reason why the Indians or any one else should have christened the Chatham peak Kearsarge, unless the name was borrowed without leave from Merrimack county.

4. There is no pretence that this name was ever applied to the hills, the rivers, or the region about this Chatham mountain. If it was an original name there as much as in Merrimack county, why was it not applied to these, as in Merrimack county? It certainly could not have been because there were not hills, brooks, rivers, falls, and intervalles enough for that purpose in the vicinity of the Carroll county mountain.

5. Whether the Chatham mountain, prior to 1784, was nameless, or known as Pequawkett, or Pigwacket, is entirely immaterial. The settlements in the Chatham, Brownfield, Conway, and Fryeburg region commenced in the vicinity of 1765-'70. The settlers were chiefly from Concord, Boscawen, Salisbury, and Andover. They were the people with whom the Warner mountain was a daily weather-gauge and a household word, "a cloud by day and a pillar of fire by night," in their little world. Every farmer and laborer in the whole region for miles to the eastward of the Merrimack county mountain, when he rose in the morning, looked first for "the storm-signal," the "cap" on "Old Kearsarge." When the old settlers left it for their new fields, they left, as it were, an endeared member of the family behind them.

When Daniel Webster went to the Pigwacket region, he found himself surrounded by his father's old comrades, neighbors, and friends. Dr. Emery, the first physician of Fryeburg, was a brother of the one who has long slept his last sleep near his old home in Andover, where in his lifetime he daily drank in one of the most magnificent views that the mountain affords.

In balancing the probabilities, we find in the one scale-blank nothing, and in the other, to put it mildly, every weighty probability that these settlers carried with them both the memory and the name of their old favorite, and that they applied it to one of the most prominent mountains in the vicinity of their new homes; and that Dr. Belknap, aided perhaps by Whipple, owing to his associations and interests in Kearsarge Gore and the region of the Merrimack county mountain, gave it the



*local* name by which the people from Merrimack county had begun to call it.

6. No one had the right to take the name of the hills, rivers, mountain, and region in Merrimack county, and bestow it upon a nameless mountain, or upon Pigwacket or any other in Carroll county, or to blot from the map the name of Pigwacket, if it belonged to the Chatham mountain.

The first of our great chief-justices once said, in discussing a memorable issue, "If there is anything which seems peculiarly a man's own, it is his name." Why should not this principle apply to the great geographical landmarks of this state?

The ethics of this society ought not to fall below those which prevail in the courts.

It is urged by those who would appropriate the old and honored Merrimack county name to the Chatham peak, that the latter was never Pigwacket. Let us see.

1. It is said that the Indians had no proper names; that every word was complete and expressive in itself; and that Pigwacket was an Indian word. What of it? Why had not the Indians the same right to give a name to a nameless hill, plain, interval, river, mountain, region, or any other locality, if they saw fit, as the white man?

2. But it is said that this word, or some other that looks like it or sounds like it, or one that can be made up out of pieces of other words and squeezed into shape until it resembles it, means "level," "open land," "where said open land is suitable for cultivation." The Pigwacket Indians may have been good farmers two hundred years ago. We know they farmed the game from the woods, the fish out of the rivers, and the scalps from the heads of the white men. That they had so far progressed as to have agricultural societies, colleges, and walled towns, we have not as yet learned. Who knows at this day whether the Salisbury and Sutton "level," "open lands" "suitable for cultivation," gave the name to the rivers, hills, and region, or the mountain to them?

Of what consequence is it whether these lands or the Pequawket tribe gave their name to the mountain, or the mountain to them?

If this argument has any weight, it is to show that the proper

name of the Salisbury and Sutton intervalles was Pigwacket, instead of Kearsarge.

3. It is said, too, that the Pigwacket was "a circumscribed position," the "Boston," "Concord," or "Portsmouth" of the Pequawkett tribe. This is directly in the teeth of fact, Indian custom, and tradition, as every man knows. They had neither cities nor towns in our sense, or in any just sense of the term.

Tribes were not riveted to particular spots by a mysterious and attractive force, like that of Sinbad's loadstone, nor were they restricted to specified and definite limits. Their boundaries, except so far as limited by water-courses, were loose and indefinite. They changed their lodges from time to time and from place to place, as convenience served. In general, no tribe was limited to "some particular village." They spread over the indefinite regions which belonged to the tribe, and that was known as the region, or country, or territory of the Iroquois confederation, or of the Mohawk, or other tribe, as the case might be. No good reason can be given why one rule should be applied to Pigwacket, and another to Dunstable, Penacook, or Kearsarge; and few things are more preposterous than the theory that any of these terms applied to one side of a river and not to the other.

The Chatham, Conway, Fryeburg, and Brownfield region was early known as the home of the "powerful Pequawketts." In 1741, Bryant found both "the Pigwacket plain or intervale land, and also Pigwacket river." In 1750, the "Pigwacket hills" were laid down by Mitchell and Hazzen on their map. On September 30, 1765, Conway, six miles square, was granted. It was described as "at a place called Pigwacket." On July 7, 1776, committees of the inhabitants of Conway, Fryeburg, and Brownfield petitioned the legislature of New Hampshire for aid, setting forth that "the said new plantations consist of about one hundred and thirty families, situated at a place called Pigwacket upon Saco river."

We have already seen from whence the people came who settled these towns. We know that they regarded the name as applying to an indefinite region, one not "circumscribed" by precise or narrow lines or definite boundaries. It is impossible to reconcile the fact that this name was applied alike to the

hills, rivers, intervalles, plain, and the extensive territory referred to, with the theory that the word applies alone to "level," "open land suitable for cultivation," or that it was restricted to Fryeburg village, or to one side of the river. Great farmers as these Indians may have been, we have no evidence that Conway is or ever was in name, or exists within the circumscribed limits of, Fryeburg village, or that the Indians planted their corn in the river, or that the Pigwacket or any other hills in that region were either level or intervalles.

Captain Willard says that when "camped on ye top of Wannedack mountain," he "discovered 26 pounds," and "saw Pigwacket lying one point from sd. mountain and Cusagee mountain, and Winnepeseockey laying north east of said Wannedack."

Great labor has been expended, research has been exhausted, and great ingenuity has been displayed, in the attempt to impeach the testimony of this most important and responsible witness.

That the Warner Kearsarge is in full view from the top of Monadnock can be attested by hundreds, and perhaps thousands: hence we have *of late* the politic concession that Captain Willard could have seen Kearsarge if he wished.

It is conceded, also, that he could not have seen Pigwacket plain, river, or intervalles, or Stark, or any other hills in Maine which it is now claimed were, later in 1725, known as the Pigwacket hills; and there is no suggestion even from any source that any other mountain in that region was then or ever since known as Pigwacket, or that Willard referred to any mountain in that region, unless he did to the Chatham mountain, or that he did not see that, if he actually saw anything there. This reduces the issue to a single point. He says he *saw* it. Did he tell the truth?

The alleged facts from which it is inferred he did not, may be considered in the following order:

1. That Willard had never been to the White Mountains. This is the charge. The inference sought to be drawn is, that because he had never been there he knew nothing about the region, and therefore could not distinguish and identify one mountain from another. If such evidence exists, it should have been produced.

Under the date of 1725 Dr. Belknap says,—“New Hampshire did not suffer so much as in former wars \* \* \* partly by reason of the success of the ranging parties, who constantly traversed as far northward as the White Mountains.” 2 Belk. Hist. 66.

This state of things, in consequence of the wars and the aggressive movements of Massachusetts, which recommenced in earnest as early as 1716, continued for nearly half a century. These rangers, surveyors, and Indian fighters made, as it were, a highway from Dunstable, Monadnock, and the sea-coast, up the valleys of the Merrimack, Pemigewasset, and Winnipiseogee.

But whether he had been there or not is entirely immaterial. Willard, like other commanders of important expeditions, usually took with him his guides and interpreters, generally friendly Indians familiar with the country. We *know* that he had them with him about a month after the time when he was on Monadnock. *They* could point out the mountains, and give the names by which they were known to them.

2. That so far as was then known, no name had been applied to the Chatham mountain. This is begging the question at issue, and is based entirely upon an assertion contrary to the weight of the internal evidence.

3. That if he had known it familiarly as Pigwacket, he could not have seen it either through his instrument or otherwise, because it was in the haze of a summer day, and a hundred miles distant.

This is a string of assumptions. There is not a particle of evidence which has any tendency to show that either Willard's eyesight, or his instrument, or the day, was hazy, and as to the distance, the evidence is the other way. The claim that the Chatham peak and Monadnock cannot be seen from each other is, to those who are familiar with both, one of the most preposterous fables ever put on record.

It is true that no one can see Monadnock from the other every day or every hour in the year. That is true as respects Mt. Washington, which is about twenty miles distant. The writer has had as fine a view of Mt. Washington from the top of the Chatham peak as any man can desire, and in five min-



utes has lost it for an hour. He has also found it impossible at times to make out either Lovell's mountain or the Merrimack county Kearsarge from the summit of Monadnock; but that these two mountains can be and have been seen from each other distinctly by the naked eye in any reasonably clear day, is as certain as it is that the sun shines, as is proved by the concurrent testimony of those most familiar with both mountains.

For all practical purposes, a viaduct runs direct from Monadnock to the Chatham mountain. Few things could be farther from the truth than to say that Red hill, or Ossipee, or any other mountain obstructs the view. This is perfectly obvious to any one who has taken a view from the top of either mountain, as well as from the raised map in the state-house.

4. That when he said he saw Pigwacket, he meant that he neither saw that at all nor any other point, but that he was laying a course with his instrument to a place where he had never been, which it was utterly impossible for him to see, and of whose locality he was ignorant. Such a proposition is too absurd for comment or answer.

Great responsibilities had been placed upon Capt. Willard. His duties were arduous and perilous in the extreme. He was sent to find out *facts*, and report them,—not to indulge in fancy, or to give loose reins to a poetic imagination. His was a daily diary, a journal of what he heard and what he saw. It contains a mass of prosaic details. It shows in every sentence the watchful eye, and the cool, practical, and matter of fact character of the foremost of the Indian rangers. It shows, too, everywhere, a broad but natural line of demarcation between the evidence of his own eyesight, what was reported by others, and what was supposed or imagined. Thus he “marched” in a certain direction, “coursed” certain streams, “camped” in certain places, “came to” certain “pounds,” “discovered” certain other “pounds;” but he recites what the scouts “found,”—that they “found two wigwams made in June or July *as we suppose*,” that “we found several old signs” “where y<sup>b</sup> they camped when they killed the people at Rutland *as we imagine*.” Few men, at this day even, mark these distinctions with such precision and exactness.

There is no suggestion even that Willard, when he says he



"coursed several branches of Miller's river," "came to a pound which runs into Contoocook river," "camped at Pwewunseum pound," "camped on ye top of Wannadnack," "discovered 26 pounds," "found several old signs," "marched down ye wast side Wannadnack," "coursed 3 streams that run into Contoocook," "found two wigwams," and "came to a streame that run into Mermack," did not write down the exact facts, nor that he did not see with his own eyes what he said he "found," or "discovered," nor that the same truthfulness does not characterize everything which precedes what is said about Pigwacket, from the beginning to the end of this expedition. It must be conceded that he knew the difference between mountains and ponds, between rivers or streams and rock or earth; that he knew the top from the base; that in some way he knew the names of these rivers, ponds, and the like, and of the mountain from which he took his observations, and the Warner Kearsarge as well.

But the logic of those who seek to justify at the same time the piracy of one name and the vandalism of annihilating another is, that when Willard came to the most terse and positive statement in his journal, to wit, that he "*saw* Pigwacket," his capacity or disposition to speak the truth suddenly ceased; and that when he said he "*saw*" certain landmarks objective and distinctive, he neither saw them nor knew their names, and drew upon his imagination for their locality.

The audacity of this proposition is softened by the tacit concession that the instant he passed the clause in question, the stream of truth resumed its normal course in Willard's brain, and thenceforward with full banks flowed on to the end.

The argument was born of the necessities of the case, and its application from the patent line as assumed on Dr. Belknap's map.

It is the deliberate and decided conviction of two members of this committee and of Dr. Bouton, that Captain Willard not only had the capacity and disposition to speak the truth, but that he did so.

We recommend the adoption of the following preamble and resolutions, prepared by and in the handwriting of Dr. Bouton, the late chairman of this committee:

WHEREAS, of two mountains in the state of New Hampshire called by the name of Kearsarge or Kiarsarge, the question has arisen to which the name more properly belongs; and whereas the judgment of the New Hampshire Historical Society has been requested on the subject;—therefore,—

*Resolved*, (1) That, after a full and impartial examination of historical evidence, this society finds that the mountain called by said name in Merrimack county has been known and called by that name, alone and invariably—with variations in spelling—more than 150 years, or since September, 1725; that the mountain so called in Carroll county was first known or designated as “Pequawkett,” and was never known or called Kearsarge until subsequent to 1780, or after the settlement of that section of country by people chiefly from Merrimack county, 1765–1775.

*Resolved*, (2) That, to avoid confusion in geographical names within the state, we regard it as desirable that the said two mountains should be definitely distinguished by some proper authority; and inasmuch as the prior name of the one is historically fixed, both on maps and in written records, and that of the other is more recent, and belongs to a portion of the state known in all our early annals as the “Pequawkett”—famous also in historic events;—therefore, in the opinion of this society, it would be highly appropriate and honorable that the name by which it was first designated, and by which it was called on the maps published by authority of the state in 1816, by Philip Carrigain, Esq., should be retained, viz., PEQUAWKETT mountain.

# THE ANNUAL ADDRESS.

JUNE 12, 1878.

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BY JOHN T. PERRY, ESQ.

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My subject, if such a distinction can be claimed for a series of rather loosely connected comments on various phases of the past, and their still more varied treatment by modern critics, each of whom gives them a turn in his own kaleidoscope, is

## THE CREDIBILITY OF HISTORY.

It has been said that the historian is a prophet looking backward. In the remotest antiquity a similar though further reaching distinction was awarded the poet. The same word was applied to him and to the prophet. This blending of meaning no longer exists; yet the union of functions has not altogether disappeared. Pope certainly wrote for all time when he declared that "The proper study of mankind is man."

But how shall man be studied? Psychologically, by placing mind in the witness-box and compelling it to be both its own eulogist and accuser; physiologically, with the knife of the anatomist and the microscope of the optician, aided by comparisons of the *genus homo* with other mammals, and of the man of to-day with the cave-dweller; æsthetically, by converting beautiful abstractions and lofty aspirations into entities most shadowy when most charming; or, lastly, shall we judge him by his works?

A dogmatic utterance on the relative importance of any branch of human knowledge cannot win universal acceptance; but I shall not be deemed presumptuous by my present audience in ranking history among the sciences.

In establishing this conclusion, several differing, if not wholly distinct, lines of illustration must be followed. The connecting thread may be slender, sometimes imperceptible. It is to be hoped, however, that the two ends will not be invisible.

What, then, is history? It is distinguished from biography as the whole from the part; it treats of society rather than of individuals. Its most approved definition is that bestowed upon it by an ancient Greek writer, Dionysius of Halicarnassus, who confessed that he owed the thought at least to Thucydides, viz., Philosophy teaching by examples. It enables us to judge man by his works,—far less perfectly, indeed, but on the same principle as we are told the Creator will finally do.

John Ruskin says the facts it is most desirable that a man entering life should know are, “first, where he is; secondly, where he is going; thirdly, what he had best do under these circumstances.” The words are the Englishman’s, but our own New Hampshire Webster anticipated him by declaring that “The earliest and the most urgent intellectual want of human nature is the knowledge of its origin, its duty, and its destiny. ‘Whence am I, what am I, and what is before me?’ This is the cry of the human soul so soon as it raises its contemplation above visible natural things.”

History does not answer all these questions, but it is the best clue to their solution. One great fact it teaches. Times may change, languages may die and be born, seas may be crossed, and empires give place to republics, but man’s nature, man himself, remains unchanged.

“The thing that hath been, it is that which shall be; and that which is done is that which shall be done; and there is no new thing under the sun.”

History, then, in recording men’s deeds, illustrates the workings of that intellectual and moral constitution which, though many-sided, is always the same. The polished diamond reflects different hues, according as one or the other facet is struck by the solar rays, but it is the same diamond in sunshine as in shade. Its chemical constituents are not destroyed, though it gains lustre by the skilful cutting of the workman at Amsterdam. It is pure carbon, just as when taken rough from the mine. So, in reviewing the deeds of men, if we would judge

them rightly, we must discriminate between the natural and the accidental. We shall, however, more quickly and certainly reach the truth if we generalize from a wide array of facts, than if we start with preconceived theories of man's moral nature or of the system of the universe.

We may here borrow these words of Frederick Schlegel, in which he contrasts psychology, the fine arts, and history :

"All these are adapted in various ways to exalt and enrich the inward man. They are in this respect equally indispensable. Yet it is preëminently from the study of history that all these endeavors after a higher mental culture derive their fixed centre and support, viz., their common reference to man, his destinies and energies."

This is history in its conception. In its manipulation by unskilled or prejudiced workmen, it is often greatly distorted, and, like the human nature of which it is the mirror, most conspicuous in its blemishes. "The gownsmen who dwell in cloistered ease," and mistake the figments of their own fancies for the achievements of the busy world without; the venal panegyrists of tyrants and demagogues; those who "waste on party what was meant for mankind;" those literary owls who think the deeds of armies and royal councils alone worthy of record, ignoring social and domestic life,—have been altogether too numerous, but happily are now going out of fashion.

I have commended the inductive process as the best for studying man, and it should be strictly followed by the historical student. He ought also to borrow Bacon's aspiration,—a noble one, though unhappily disregarded by its author, when, as lord chancellor, he furnished such sad materials for the historians of his time. He says,—

"God forbid that we give forth the dream of our fancy as the model of the world, but may he rather vouchsafe us the grace that we may indite a revelation and true version of the march and signs of the Creator impressed upon creation."

There is, of course, a philosophy of history. It is legitimate for Mr. Lecky or Mr. Buckle to mass facts and events for the sake of indicating their bearing on certain general truths, rather than of chronicling their occurrence. There is danger, however, lest the theoretical get the upper hand of the actual. Mr.



Buckle, at least, affords an illustration of the possibility of an able man's being carried off by his own hobby. Former writers have underrated physical influences, but he has magnified them at the expense of still more potent forces. Facts, plain unvarnished facts, are to history what axioms are to geometry. They may be employed as simple landmarks, or be used as the foundations of lofty and elaborate structures. The most imposing edifice, if raised without them or by their misplacement, has at best an insecure basis, and must eventually topple over. Dull observers and careless narrators on the one hand, and ambitious theorists on the other, are the chief instruments in perpetuating mistaken views of events.

#### IMPORTANCE OF HISTORICAL SOCIETIES.

Here is shown the importance, the necessity rather, of an organization like that before which I have been called to speak. The preservation of simple facts, and largely of those which escape the notice of the general student or the collector, forms a leading part of your work. The gathering of relics of the past is a service that cannot be overvalued, but the rescue from oblivion of those ephemeral documents and events which are so rapidly transmuted into history, and yet are so speedily forgotten by the mass of the people, is even more important. Had there been historical societies from the first settlement of the North American colonies, saying nothing of remote antiquity and the Eastern hemisphere, much fiction in the guise of history would not have been written, many a fierce controversy would have been avoided, and many a lawsuit would never have begun. The collection of materials for history is a less ambitious but no less useful branch of effort than the working up of those materials into volumes. The accumulations of seventeenth century ballads, pamphlets, pasquinades, etc., in the British Museum, enabled Macaulay to compose some of the most interesting chapters of his history,—chapters the impartiality of which has been less called in question than that of many other sections of his work.

## IMPARTIALITY.

But there are divisions in historical as in other labor. Facts must not only be collected, but they must be laid before the reader in connection with other facts, and with their bearings explained. Here trouble is likely to occur, for historians are fallible, and captious readers are only too glad to bring charges of partiality. Yet absolute want of color is as undesirable as it is impossible. Facts should never be suppressed or mutilated, but the author should have a soul. Motley, for example, glows with sympathy for the suffering Netherlanders, but no fair critic will accuse him of maligning their Spanish oppressors.

All that the reader can ask is, that occurrences should be told as they happened, and that the writer shall not conceal his standpoint. Histories purporting to be written without bias are as dull and unreadable as the educational manuals, where no one's prejudices are to be hurt and no one's views to be sustained. Something of the kind has been attempted in our public schools, and rightly enough within reasonable limits.

When carried to the extent proposed by some, however, the expurgating and kiln-drying process must prove a lamentable failure. Christianity is an undeniable factor in human progress, be it true or false. Can any man write of it in such a manner as to satisfy both the believer and the skeptic? The Reformation was a most important event: Luther and Calvin were either noble revivers of primitive doctrinal purity, or wicked schismatics. They cannot be ignored; neither can they be described in neutral terms. No pupil can study even the most meagre account of their careers without forming an opinion. Shall the teacher send off the youthful inquirer with "Ask your father," or "I must decline to answer sectarian questions," or shall our public school curriculum be restricted to the three R's? I have no plan to suggest. It is, however, fair to remark, that if the thoroughly unsectarian and secular schools, so much urged by politicians anxious to please all sides, are to be established, no history can be taught in them.

The true impartiality is that professed by Tacitus. He wrote, he says, without hate as without love. This may be true as regards persons. No writer, however, more plainly shows his

indignation at wrong and his admiration of right, while recording with judicial impartiality each man's deeds. Men are generally truthful in speaking and writing, unless swayed by some mean passion or narrow prejudice. Historians have more frequently erred through a lack of mental breadth and analytic power than through intentional unfairness. They have either allowed themselves to be tied by the bonds of party and sect, or have adopted Dr. Dwight's plan in his so-called epic, *The Conquest of Canaan*. In this poem, the hero, Joshua, is stripped of all distinctive Hebraic characteristics, and endued with those glittering generalities which pass for heroic in every age. No such Joshua ever lived, and it is not wonderful that the doctor's eclecticism found few admirers, and that his epic was virtually forgotten long before he passed away.

As absolutely perfect history has never been written, and our theory has consequently lacked full realization, is its validity to be denied? Seba Smith wrote a book in refutation of geometry, because no one had ever seen a line without breadth, or a point lacking both length and breadth; but the science is still taught in our schools, and everywhere forms the basis of important practical calculations. A whole army of Diogeneses, each provided with a calcium light instead of an ordinary lantern, would fail to find a perfect man: is perfection therefore a delusion? There is hardly a historian of eminence whose works have not been more or less assailed; and generally some vulnerable points have been found. Yet no honest critic has failed to see that in narratives of comparatively recent events truth is greatly in excess of error. Posterity detects and refutes the falsehoods of the angry partisan scribblers who rise up in every excited epoch, and it turns a deaf ear to the theorists who strive to unsettle well established opinion. Who has ever been convinced by Horace Walpole's historical brief that Richard III was more sinned against than sinning, or who has set down Columbus as a master of cruelty because a recent writer, whose name I am glad to forget, has published a volume to convict him of piracy and other heinous crimes?

Ancient authors have not fared so well. Within the last hundred years the assault has been extended to the very foundations of history; and, as extent of time seems alone enough to make

records mythical, we may expect that our own era will be treated as at least semi-fabulous by the critics of 2878, if the refining process goes on for the next ten centuries.

When the existence of certain pre-Christian writers has been conceded, they have often been set down as romancers or virtual simpletons; but we may perhaps find good reason for believing that, like the men of to-day, they tried to tell the truth, and had common-sense, though sometimes prejudiced and credulous—defects not unknown in the afternoon of the nineteenth century.

This is an age of intellectual as well as civil upheaval. Old beliefs, as well as old institutions, are closely scrutinized, and sappers and miners are hard at work. We are not of those who believe that chaos is to return, or that, like the French revolutionists of 1792, the wise men of to-day must reject everything that savors of antiquity. The world is making progress, and disintegration may be a needed preliminary to the reconstruction of some of our beliefs. But, after all, the chief modification will be required in our views of facts, and not in the facts themselves. Let us examine the claims of history as they have been menaced by two most formidable assailants, study the latter's tactics, weigh the results of the battles thus far fought, and see if the attacking parties are as completely masters of the field as their bulletins, often sent out at the opening of the conflict, have proclaimed them to be.

#### THE MYTHICAL THEORIES.

First, the mythical theory, in its manifold forms, has been pushed to an extreme for the sake of discrediting history. As might be supposed, it has been chiefly applied to ancient writers and traditions; for what is recent is generally too firmly established to offer any hope to the destructionists. We use the word "mythical" in a wider sense than it is often employed. Strictly speaking, the myth is distinguished from the fable and the parable in not being the result of conscious invention. It may vary from the legend in having no historical basis. If we may believe writers like Mueller, Grote, Tylor, and John Fiske, there was a time when men were mythopoeic,—that is, myth-makers. In their simplicity and spontaneity of mind, they



imagined divinities as existing in earth, sea, and sky, and worked up the most elaborate personifications without being conscious of the process.

John Fiske (Origins of Folk Lore) defines a myth as, "in its origin, an explanation by the uncivilized mind of some natural phenomenon; not an allegory, not an esoteric symbol,—for the ingenuity is wasted which strives to detect in myths the remnants of a refined primeval science,—but an explanation. Primitive men had no profound science to perpetuate by means of allegory; nor were they such sorry pedants as to talk in riddles when plain language would have served their purpose. Their minds, we may be sure, worked like our own; and when they spoke of the far-darting sun-god they meant just what they said, save that where we propound a scientific theory they constructed a myth."

Mr. Fiske and his school find solar myths everywhere, and trace them back to those mysterious Aryans, of whose race, as well as religion, the *London Times* humorously pronounces Max Mueller the founder. They have discovered that the story of Hamlet is only a symbol of the conflict between summer and winter; and that, not in Switzerland merely, but in nearly half a dozen countries, has there been a William Tell in tradition, but without actual existence. Other results no less surprising have been reached, to which we shall refer in the proper place.

Of this mythical theory *par excellence* it may be said, that, granting it a reasonable amount of truth, it is untenable in its extreme form. It reverses natural processes. If an event has occurred, it is easy to see how it may be misunderstood, amplified, and distorted in course of time. It may finally reach a stage of exaggeration in which the ideal completely overlays the real, but there was fact at the start. There are stories in the folk lore of many countries of a woman who was buried alive, and restored to consciousness by thieves' cutting off one of her fingers to get possession of a valuable ring she wore. Is it not more probable that all these slightly varying traditions of a not impossible occurrence are based on fact, than that they are the expression of some old-time mythical principle? The dog which killed the serpent by the infant's cradle, and being covered with



blood was slain by his master on suspicion of having eaten his charge ; the falcon which dashed the poisoned cup from the king's hand, and was put to death before it was discovered that he was trying to save the king's life,—are different versions of what is more likely to have happened, than to have come down through the clouds. If all men sprang from a common source, or if many modern races had Aryan ancestors, it is altogether likely that the memory of remarkable occurrences, even in the earliest ages, would be handed down through a long succession of generations. It is hard to believe that the primitive races had so much of the philosophic sense as to personify their abstract conceptions, and yet be stupidly unconscious of what they were doing. It is easier to suppose that the unenlightened masses lost the real sense of traditions and of the allegorical teachings of their priests and philosophers.

As regards the Grecian mythology, we have the plain statement of Herodotus, B. C. 450: "Whence each of the gods sprung, whether they existed always, and of what form they were, was, so to speak, unknown till yesterday. For I am of opinion that Hesiod and Homer lived four hundred years before my time, and not more ; and those poets framed a theogony for the Greeks, and gave names to the gods, and assigned to them honors and arts, and declared their several forms." Book ii, 53.

Another school of writers finds the old-time veneration of the reproductive principle the foundation of many a devoutly cherished fancy. Astronomical allegory was the key with which some writers of the last century strove to unlock the door to every mystery, and their wild explanations seem to be regaining their lost reputation in our own day. Others still, who can hardly be reckoned among mythical champions, though they are their near relatives, are lynx-eyed in detecting the age and surroundings of an author by his style, and what they are pleased to call his "tendency." They carry their theory as far and as absurdly as does Mr. George Wilkes, who, in his recent volume on Shakespeare, attempts to prove the great dramatist a Roman Catholic, because he has made some of his characters profess their devotion to the papal establishment or enunciate its doctrines. Given an author's age, he must have written so and so ; and if he rises above his contemporaries, and antici-

pates ever so imperfectly the ideas of a future generation, it is held to be most likely that his reputed works are not genuine.

In short, we are asked, on different but kindred theories, to reject ancient statements—that is, history—unless supported by overwhelming evidence. The rules of our courts do not hold here, for the defendant is presumed to be guilty until he has demonstrated his innocence. It is not pleasant to believe that the mass of early historians were such clever rascals that they succeeded in deceiving their contemporaries and all subsequent generations up to near our own times. Are the records of the past generally true, subject to reasonable qualification in view of human infirmity, or are they mere moon- (we mean sun-) shine and creative symbols?

#### CANONS OF JUDGMENT.

Vincent of Lerins, an early church authority, declared worthy of unquestioned acceptance whatever doctrine had been believed everywhere, always, and by all. So, when we find a well-nigh universal human tradition, varying in details yet identical in essence, we set it down as true. If it appears to embody objective fact, we may pronounce it historical or semi-historical, without being always as confident as Euhemerus of our ability to separate the husk from the kernel. If it merely typifies a moral or intellectual principle, we recognize its subjective truth.

If the historical substrata of two or more distinct narratives are akin, the simplest and most reasonable form is to be accepted as the earliest. Men forget facts at least as often as they pile up legends, and modern research, especially in the line of archæology, is playing sad havoc with the theories of the myth doctors. Could the old writers who have been so roughly handled by them return to earth, they would have ample satisfaction in seeing how frequently the tables have been completely turned on their maligners.

#### WOLF AND HIS SCHOOL.

A little less than a century ago, Frederick Augustus Wolf, a famous German professor, broached the theory that Homer was a myth,—the Illiad and Odyssey being the songs of various

rhapsodists, finally collected. This was flying in the face of all ancient tradition and of all written history. It aroused much opposition, but made many converts. It gained a still greater number of half-way adherents. These were willing to admit that the story of the Trojan war was wholly mythical, or at best nine tenths legendary, while it was quite possible that the two epics were mainly the work of one author. When Wolf wrote, philological criticism was in its infancy, and archæology was no further advanced. With their progress, the reaction from his extreme views would have been more rapid had it not suited the German mind to be skeptical. Niebuhr applied the mythical system to Roman history. Our ancestors believed in the general truthfulness of Livy and the other Latin historians. Of course they did not credit the alleged celestial parentage and lupine adoption of Romulus and Remus. Still, with a judicious application of the rationalizing process, they felt that the Roman writers could be trusted. Niebuhr, however, borrowing the thunder of Wolf, spread the mythical veil over all the earlier periods of Roman growth. Strauss meanwhile sought to resolve the narratives of the Four Evangelists into myths, and wherever the hypothesis would not precisely fit, magnified variations of expression or detail into positive contradictions, and so used one writer to annihilate the others.

The fashionable sun-myth process was found to be happily applicable to Homer. The events described in the Iliad were not only repetitions of what had been detailed in the Rig Veda, but actually dated back to "a period preceding the dispersion of the Aryan nations." So thought Max Mueller and Mr. John Fiske, and they may not have changed their minds. "It is disheartening," wrote the latter in 1870, in a review of Mr. Gladstone's "Juventus Mundi," "at the present day, and after so much has been finally settled by writers like Grote, Mommsen, and Sir G. C. Lewis, to come upon such views [Mr. Gladstone's belief that Agamemnon, Achilles, Paris, *et al.*, were actual personages] in the work of a man of scholarship and intelligence. One begins to wonder how many more times it will be necessary to prove that dates and events are of no historical value unless attested by nearly contemporary evidence.

\* \* \* The belief that there was a Trojan war rests exclu-

sively upon the contents of those poems: there is no other independent testimony to it whatever."

Mr. Fiske proceeds to show how the chief personages in the *Iliad* are solar personifications, but he concedes that this "does not forbid the supposition that the legend, as we have it, may have been formed by the crystallization of mythical conceptions about a nucleus of genuine tradition."

You all know how, during the last few years, a zealous countryman of Wolf, and by naturalization our fellow-citizen,—Dr. Schliemann,—has demonstrated, if not the literal truth of the non-supernatural part of much of Homer's narrative, its historic basis. He has shown that Ilium existed; that it was burned; that Homer was wonderfully accurate in his topographical descriptions and allusions,—much more so than could be expected from one writing a poem a century or two after the siege. Dr. Schliemann has also possibly discovered the remains of the murdered Agamemnon at Mycenæ, surrounded by those of his fellow-victims. Mr. Fiske has abundant reason for being disheartened, not at Mr. Gladstone's credulity, but at his own speculations. Whether or not Dr. Schliemann is justified in all that he claims, he has developed most important facts, and opened the door to many more. He has confirmed the general truth of ancient tradition, as embodied in the writings of men like Pausanias and Strabo; while Capt. Burton in Midian, Dr. Curtius in his labors at Olympia, Constantin Caropana at Dodona, and Mr. Wood in his excavation of the temple of Diana at Ephesus, have also shown triumphantly that the old chroniclers were as faithful as any modern reporters or historians could be. It is better to walk on the ground with common men, than to mount in the balloons of speculation until the fierce beams of the sun blind the eyes.

Rome is little behind Greece in yielding unpalatable fruit for the myth-finders. They have set down the kings as fabulous personages, though the *Cloaca Maxima* was before their eyes to remind them that there must be a very substantial basis of fact to ancient traditions. The government explorations are every year developing new facts, or recalling old ones, to shake their doubts. The Servian wall, the *Circus Maximus*, and the *Capitoline Temple*, unite with the wonderful sewer in illustrating



the greatness and wealth of the Eternal City in its alleged mythical age. As Goldwin Smith adds to the mention of the above evidences: "That Rome was comparatively great and wealthy is certain. We can hardly doubt that she was a seat of industry and commerce, and that the theory which represents her industry and commerce as having been developed subsequently to her conquests is the reverse of the fact. Whence but from industry and commerce could the population and the wealth have come?"

It is not my purpose to analyze Strauss's skepticism. It is enough to say that his precise hypothesis is no longer in credit even in Germany. He has had numberless successors, each desirous of killing Christianity in his own way. At last accounts the New Testament was better known and appreciated than either of their systems, which are more destructive of each other than of the object of their common hostility.

#### THE SCRIPTURES AND THEIR CRITICS.

One might cite Archbishop Whately's ingenious argument to show that Napoleon Bonaparte must be a myth, by applying the same principles of reasoning to his wonderful career as Strauss has done to that of Christ, and various historical theorists to secular events; but it comes nearer home to notice a queer coincidence that attracted my observation, and which I recorded at the time in the paper with which I am connected. You know that each of the four evangelists gives the inscription on the cross in slightly varying words. This has frequently been adduced as an evidence of their lack of information, unreliability, and even of the uncertain occurrence of the event described. The fairness of these deductions is happily illustrated by a superscription of our own time, recorded by four men, who, if not evangelists, were neither imposters nor myths. Capt. Lahrbush, who died in New York April 3, 1877, at the reported age of 111, was buried on the 5th of the same month. His funeral was held in a church, and was attended by the representatives of four different papers. Each of these appears to have read the inscription on the coffin-plate, but no one of them quotes it in precisely the same words. The *Herald* reporter



said it was as follows: "Frederick Lahrbush died April 3, 1877, aged 111 years." The *World* had it, "Frederick Lahrbush born 9th March, 1766; died 3d April, 1877." In the *Tribune* it appeared, "Frederick Lahrbush, born March 9, 1766; died April 3, 1877. Finally the *Times* published it as "Frederick Lahrbush, born 9th of March, 1766; died 3d of April, 1877."

Shall we conclude from these discrepancies, fully as important as those of the evangelists, that the reporters were writers from hearsay, or wicked impostors, or that Captain Lahrbush was never buried? We certainly have the right to take our choice of these suppositions, or even lump them all together, if we follow the precedents set by some reputedly astute biblical critics. One or two of the results of the wild scheme of astronomical allegory, first enunciated by Dupuis in his *Origin of Religions*, near the close of the last century; popularized by Volney in his *Ruins*; adapted with variations, and more or less fully, by Sir William Drummond in his *Ædipus Judaicus*; by Godfrey Higgins in that vast muddle of undigested learning, the *Anacalypsis*; repeated *ad nauseam* by men of feebler minds and even greater anti-Christian malignity, and galvanized into new life by some writers of our own day,—may be cited.

The mere mention of a point or two is enough to expose the absurdity of the school. While its representatives have adduced some curious facts showing a connection between the religious and astronomical theories of the ancients, they have distorted mythology and philology to an almost incredible degree. They have strained verbal resemblances in names to the utmost, and inverted the pyramid by basing the mythology of nations on the zodiacal signs, instead of treating these signs as being invested with conceptions borrowed from previously existing beliefs. When they tell us that our Saviour was merely a type of the sun, His mother the constellation Virgo, and His death and resurrection the sun's passage from the winter to the vernal solstice, they are confronted by the positive testimony of Tacitus to the reality of His existence, by the sufferings of thousands of martyrs who would not have laid down their lives for an astronomical fable, by the spread through the Roman empire of doctrines heretofore unheard of, and contrary alike to Judaic

formalism and to every school of heathen philosophy. If astronomy, either literally or figuratively taught, worked such transformations against most formidable obstacles eighteen centuries ago, it is singular that its miraculous powers have been so entirely lost.

The exploration of the Roman catacombs is throwing a constantly increasing flood of light upon the early history of the church, and confirming the accuracy of the histories, sacred and profane, that have come down to us. Their miles on miles of streets, lined with the tombs of those who sacrificed their all for their faith, bring before us the lives, beliefs, and sufferings of the early Christians as vividly as do those of Pompeii the ways of their unbelieving Roman contemporaries. Had Tacitus, Suetonius, and Pliny never written a line, we should have in these subterraneous passages confirmations of Holy Writ that would put Dupuis and his followers to the blush, if that were not a physical process against which they are wholly proof. Of Inman and his unclean phallic crew, I will only say that they gloat over the details of abominations briefly noticed and sternly reprehended by the Hebrew prophets, but have been unable to fix them upon Judaism except when Jews turned their backs on Jehovah to adore Baal and Astarte.

We are not lecturing on Scripture, except to illustrate historical evidence in general by what has been alleged in regard to one important department. We must, therefore, content ourselves with a passing allusion to the discoveries of the lamented George Smith, respecting the Chaldean legends of the creation, fall of man, and the deluge. They are wonderfully like those of the Pentateuch, though lacking their simplicity, coherence, and beauty. It seems plain that the Hebrew version is the original. Though the other is at least as old as Abraham, Moses must have had access to still earlier documents. Some late writers have attempted to apply the evolutionary process to Judaism, making its peculiar monotheism a late attainment, but the Chaldee tablets, much more their Hebrew prototype, cannot be ascribed to the time of Ezra. The comparison of mythologies would lead us too far from our proper subject, but we repeat the proposition, that when varying accounts exist, the simplest must be the oldest, unless it be

a revised and rationalized version ; and this process always betrays itself.

The mythical and tendency theories, as applied to the New Testament, are too technical for consideration here. It is enough to say, that no two writers of this school are agreed as to what is myth and what is fact, as to what is genuine and what is interpolated. Much dust has been raised over the period of the composition of the gospels, but no critic has been able to show how or when the early church was made to believe that some forged gospel or epistle was apostolic, though no such uncertainty attends the discovery that any apocryphal book was temporarily and partially accepted, and eventually rejected. If the same tests were applied to the classics as to the canon, no one could be sure of the genuineness of many works whose genuineness has never been questioned.

The fallibility of the tendency and mythical theorists was very happily exposed in Germany a few years after the publication of Strauss's *Life of Jesus*, and of other works in which the origin of the New Testament books was examined from the point of view of their style by modern critics, lynx-eyed in detecting an anti-Judaic element, to which the church of the first four and the next twelve centuries was blind. William Meinhold, a North German pastor, resolved to put their acumen to the test. He produced what claimed to be a romance worked up from an old manuscript of the seventeenth century, found in his church. The "*Amber Witch*," as it was called, told in antiquated language how a minister's daughter, during the Thirty Years War, came near being burned at the stake. She could not satisfactorily account for a large amount of amber which she had found, and was believed to have obtained it through witchcraft. The book was submitted to various rationalistic experts. To a man they indorsed the genuineness of the narrative, finding in it all the evidences of real antiquity. When told that it was Meinhold's composition, they became virtuously angry, and denounced him in no measured terms for his want of truthfulness.

## FORGOTTEN AFRICAN DISCOVERIES.

Geographers of the stay-at-home order may not strictly rank with mythical theorists, yet they have often sacrificed fact for fancy as needlessly and absurdly as the men just mentioned. They have preferred their own guesses to the records of hard working and truthful explorers. Africa has especially suffered at their hands. Had the theoretical compilers of maps and treatises given due credit to the statements of the ancients, and of the early Portuguese missionaries and traders, the lives of many modern travellers might perhaps have been saved. At all events, their journeyings would have been less hap-hazard. We find even Dr. Livingstone—by no means to be ranked with the library chair authorities—constantly dilating on the mistakes and deficiencies of the Portuguese writers.

Most of you have seen in a late number of *Harper's Weekly* a *fac-simile* of a map of the African continent, published in 1626, which is a much better representation of the country than any published between 1750 and 1850. It is not wholly correct, for the Niger is made to flow into the Atlantic through the Senegal and Gambia, instead of reaching it, after making a great circle, in the Gulf of Guinea. The equatorial lakes, which are the sources of the Nile, are located several degrees too far south, and the Congo is erroneously represented as sharing one of these fountains; but there is an approximation to the great lacustrine system rediscovered within the last dozen years. The mistakes are by no means as misleading as the solid rampart of Mountains of the Moon that was drawn across the continent in the atlas I studied at school, and are greatly preferable to the area of "unexplored regions" which has appeared on all charts until within a very brief period. The map reproduced in *Harper* was not original, for the facts it embodies are to be found in still earlier compositions of its class. It is not topography alone that has been forgotten through the conceit of geographers. Much of what Stanley has recently learned at such great pains, the stories of the gorilla which Du Chaillu was pronounced a romancer for telling, and many other interesting data, are included in the collections of voyages and travels published in the seventeenth and eighteenth centuries. In illustration of this



fact I make a few quotations from Anstey's *Voyages*, published in 1744-'46, premising that not a few of them had already appeared in the earlier compilations of Purchas, Dapper, Harris, and others.

Anstey cites Battel as writing of a foray of the Jaghers to the west coast in 1589: "The prisoners were brought into the camp alive, and the dead bodies eaten by the Jaghers, who are the greatest cannibals in the world, delighting in man's flesh, though there were plenty of cattle." These Jaghers were the ancestors of the cannibals whom Stanley encountered on the upper Congo. Their location is properly indicated on the old maps, and there are frequent accounts of their expeditions. They took the capital, Banza Congo, or San Salvador as the Portuguese call it, and speedily erected their human shambles.

Of the Pigmies, known to the Romans, but thought mythical by the moderns until Schweinfurth encountered some of them a few years ago, we are told in Anstey's synopsis of Dapper and others: "To the north-east of Mani Kesek, a prince living eight days east of Cape Negro, in Loango, are a pigmy people called Matembas, no taller than boys of twelve years old, but very thick. They live only on flesh, which they kill in the woods with their bows and arrows. They pay tribute to Mani Kesek in elephants' teeth and tails; and their women use bows and arrows as well as the men, and one of them will walk the woods alone and kill the Pongos, or great baboons, with their poisoned arrows."

Here is a mention of the gorillas (or Pongos), and there are descriptions of them in the same work, and a picture of one side by side with that of a chimpanzee, the two creatures being carefully distinguished. Had people twelve or fifteen years ago remembered what they were told by honest if old-fashioned eye witnesses, Du Chaillu would not have ranked as a Munchausen until his truthfulness was made apparent by the arrival of both dead and live gorillas in this country and Europe. We quote again from Anstey.

Battel says,—“In the woods about Mayomba, in the kingdom of Loango, there are two sorts of monsters, the greater called Pongo and the lesser Eujoka. The former is proportioned exactly like a man, but of a larger size and very tall.



The face is like that of a man, but hollow eyed. There is no hair on his hands, ears, or face, except his brows, where it is very long. His body is covered with hair, though not thick, of a dun color. He differs only from a man by his legs, which have no calf. He always goes erect, and carries his hands on the nape of his neck when he walks. They sleep in trees, and build shelters from the rain, living upon what fruit or nuts the woods yield, for they eat no flesh. \* \* \* The Pongos are never taken alive, being so strong that ten men cannot hold one of them, but the natives take many of their young by killing the dam."

The author here quoted may not be scientifically correct in his details, but he certainly saw gorillas, or was familiar with their general nature and habits through trustworthy informants.

We might continue these extracts to great length, but we restrict ourselves to one more. You are perhaps aware that since the discovery of diamonds has attracted so many European adventurers to south-eastern Africa, splendid stone structures have been found west of Sofala, supposed by many to be Solomon's Ophir. These buildings, which no ordinary negro could have built, are akin to the Cyclopean edifices, the product of early Hamite skill. The surprise of the diamond hunters was also experienced by a military chieftain named Barreto, a kind of Portuguese Cortes, two centuries and a half ago. The old chroniclers are not silent in regard to them. Lopez says,—“In the countries of Monomatapa there remain many ancient structures of great labor and singular architecture, built with stone, lime, and timber, the like whereof are not to be seen in all the provinces adjoining.” He thence conjectures that Solomon might have had his gold from this quarter. Another writer tells that “In the Mount Assur, near Mas-sapo [that is, south of the river Zambesi], are seen the remains of stately buildings, supposed to be palaces and castles.”

#### HISTORY AND SCIENCE.

I pass to the second great antagonist of history. In our own days the claims of history are being denied as a whole, or at least relegated to a very circumscribed place by the radical

advocates of certain branches of physical science—of all-embracing science, with the biggest kind of an S, as they would have the world believe. Physical phenomena cannot explain everything, but established data must prove invaluable aids in forming our estimates of the world and its inhabitants. If the Baconian order is not abandoned, and facts are not adjusted to meet the exigencies of a preconceived hypothesis, important results may be reached. It may be well-nigh impossible to avoid guessing at the outcome of an unfinished process, but the truly scientific mind is judicial rather than imaginative. It is constructive, but it postpones building until it has collected a sufficiency of material.

It is often alleged that there is a conflict between theology and science; that the former has ever represented blind prejudice, while the latter is the consistent champion of truth for truth's sake. President White, of Cornell University, has written a little volume to show how theology has always been opposed to science, and how science has invariably conquered. He seems to assume that science is an unchangeable entity; that all the unreasoning passion is on his opponents' side; and to forget that a great many important discoveries have been made by men whose devotion to religion was the ruling principle of their nature. Herbert Spencer is more candid, for he recognizes the existence of an *odium antitheologicum*, as well as of an *odium theologicum*. Both may well be dispensed with, but if the representatives of current beliefs have often been unduly timid, the overthrow of their convictions has as often been proclaimed with an arrogance and exultation little calculated to allay opposition, much less to effect conversion. Further, science has taken many false steps. Not to mention individual mistakes, the French Academy has declared at various times against the use of quinine, against vaccination, against lightning-rods, against the steam engine, and against the existence of meteorolites. Twenty-five years ago the man who dared assert within ear-shot of Harvard college that all men were descended from a single pair was regarded as much more orthodox than enlightened. Yet, when Prof. Agassiz died he left very few disciples. So far as geology is concerned, it is enough to say that no two of the half dozen or more editions of

Lyell's treatise agree. The changes that he made may be ascribed to progress, but it is a fact, as we shall soon see, that there is a tendency to return to some of the earlier theories.

Specialists in the different departments of natural science evince no little jealousy when their fields are invaded. They deny the competency of any man to have an opinion even, who has not become minutely acquainted with all their products. To this it may be answered, first, that a specialist may gather details without being competent to generalize from them. A man may be a skilful miner of gold and silver, and yet be a child in the laws of finance. His views on strata and shafts may supply valuable information, and be intelligible to those who could not work them to advantage. Second, we do not observe that these specialists are careful to keep within their own bounds. They boldly advance into the dominions of speculation, and are not at all reluctant to pass judgment on questions which lie entirely within the jurisdiction of the novelist, metaphysician, or historian.

As they have raised an issue with history on some important points, we will glance at the matters in dispute. The theory of evolution, in the special form required by the Darwinian hypothesis, and in its wider statement which endows it with all the power of Omnipotence, consciousness excepted, has won the favor of scientific men, while a still greater number accept it as the most intelligent explanation of the plan on which the Deity has worked, and as accounting for the existence of partially developed or obsolete organs, heretofore unaccounted for. There are other plausible arguments for its truth, which will no doubt suggest themselves to you. It is admitted, however, on all sides, that there are great gaps to be filled, especially when the hypothesis is applied to man. His ascent from the brutes is a matter of pure speculation; so is the transformation of inorganic into organic matter; and so also is the transmutation of one species of organized being into another. If the changes have occurred they have been incredibly slow, and none have taken place within the memory of man.

The relations of evolution to humanity are the only ones with which we are now concerned. The earlier geologists conceded that our race had recently appeared on the earth, and that the

great periods preceding man's creation were separated by catastrophic eras, in which countless lower species of existences had perished, giving place to others with whom they had no connection. Human remains have been discovered, however, under circumstances which seem to indicate a much greater antiquity than was formerly supposed. When evolution was suggested as the substitute of direct creation, this last discovery was utilized. The origin of man was put back hundreds of thousands of years, while millions more were demanded for his slow development through lower types of creation. Catastrophic geology was abandoned, and the uniformitarian theory took its place. If evolution was the sole influence at work, there must be comparatively smooth sailing from beginning to end. At all events, there must be no breaks. If man sprang from the brutes, then he must have begun his human career as a savage. Confirmation of this was alleged to exist in the skeletons or parts of skeletons lying in European caves and gravel drifts in close proximity to the remains of animals long since extinct in that part of the world, and to others which have disappeared from the face of the earth. According as rough stone, polished stone, or copper weapons or utensils lay near human remains, the latter were pronounced representatives of the palæolithic, polished stone, or bronze ages—a classification first established by Danish experts. In our own country, traces of human existence have been discovered which are ascribed to a very early period. The so-called Calaveras skull, dug from a mining shaft in Table Mountain, California, is believed by Professor Whitney to belong to the Pliocene epoch; but the majority of the best geologists declare that the earliest date of man's existence thus far proved is the Champlain epoch of the quaternary period, a very much later time than that claimed by Professor Whitney on very slender grounds. Professor Le Conte, of California, estimates that man came on earth from ten to fifty thousand years ago—more probably the latter. Mr. Croll and other astronomical and mathematical authorities have shown that the age of the earth must be much less than the many myriads of years formerly attributed to it.



## A RETURN TO OLD THEORIES.

There is also a marked tendency of late on the part of geologists to reädopt the catastrophic theory, at least in part. Le Conte has employed the word unconformity to designate the periods of disturbance which separate those of comparative repose. Though he does not like to admit that there have been actual breaks in the chain of existence which would prove fatal to evolution, he says,—“In all speculation on the origin of the animal kingdom by evolution, it is very necessary to bear in mind this *lost interval*, for it has evidently a great duration.” He has special reference here to the disappearance of the Laurentian rocks; but his words have a wider bearing.

Clarence King, in his address before the Sheffield Scientific School of Yale college last summer, argues forcibly for the necessity of catastrophe as an explanation of the wonderful formations of Colorado and California. He speaks of the ultra uniformitarians as persons “whose dominant characteristic is a positive refusal to look further than the present, or to conceive conditions which their senses have never reported. \* \* They suffer from a species of intellectual near-sightedness too lamentably common in all grades and professions of men. \* \* They have saturated themselves with the present *modus operandi* of geological energy, and, culminating in Lyell, have founded the British school of Uniformitarianism.” He objects to “sweeping catastrophism as an error of the past,” but instances many periods in the history of cañons and mountain chains, of which it is the only adequate explanation. His utterances are the more important, because he still believes that “He who brought to bear that mysterious energy we call life upon primeval matter, bestowed at the same time a power of development by change, arranging that the interaction of energy and matter which make up environment should from time to time burst in upon the current of life, and sweep it onward and upward to even higher and better manifestations.” The admissions of a thorough-going evolutionist are valuable, however satisfactory his attempts at reconciling his concessions with his theories may be. He regards the later periods as eras of comparative quiet, and so indeed they are.

Still modern history is not wanting in instances of wondrous



changes wrought by earthquakes and volcanic eruptions. The rise of the volcano of Jorullo in the last century produced greater changes in the surface of a wide district in Mexico than ordinary causes could have effected in thousands of years. The erosion of water has changed the line of coasts within the memory of two or three generations. Yet man, as man, has not been modified since history began; and prehistoric skulls, with perhaps the exception of that known as the Neanderthal, show no exceptionally low or brutish characteristics. The flat shin-bones of the cave-men of Europe are to be found among the American Indians of our day, and the general type of the cave-dweller is very nearly that of the modern Esquimaux. Professor Whitney's Calaveras skull is denied the antiquity which he claims for it, by the Darwinians, because it looks like that of a Mexican Indian; and if we may carry out Mr. King's ideas to their legitimate conclusion, it may have been buried by an earthquake in a comparatively recent period. Palæontology reveals, then, no essential changes in man.

#### ANTIQUITY OF MAN.

The proofs of his antiquity must be found in the formations in which his earliest remains have been discovered. Calculations based on the rate of deposit in the streams and deltas of rivers are of very little force, since nearly every river is a law unto itself. You may have heard that the Mississippi is constantly changing its course, now eating into one bank and then into the other; here cutting and there abandoning a channel. No pilot who has been off duty for a year is allowed to return to work until he has made one or two trips of inspection. Island No. 10, so famous during the war as a base of operations, was half washed away when I passed it in March, 1874. Lyell claimed for the delta of this river an antiquity of hundreds of thousands of years, while the American Coast Survey reduced its age to about 4,500 years. The rate of progress has probably not been uniform. The delta of the Po has advanced twenty miles since the Christian era, while the Nile delta is estimated to be making much slower progress. The process may be rapid, or gradual, according to circumstances. Not many years ago the gunwale of a flat-boat with an auger-hole bored through

it was discovered about twenty feet under ground, at Port Jackson, on the Mississippi. Mr. Fontaine, who chronicles the fact, says that the age of no fossil found in the alluvium of the present delta of Louisiana can be determined.

The accretion of stalagmite is equally variable. In a well at Aix les Bains, Savoy, into which the Romans were accustomed to throw votive offerings, coins of the time of Nero were found under several inches of stalagmite, while between them and other offerings of a far earlier period there was another accumulation of the same kind. Yet the advocates of uniformitarianism call upon us to concede an equal and always slow growth for deposits like these, and are unwilling to admit that its rate could change through countless centuries.

It is now well known that the lake dwellings of Switzerland, for which the date of 7,000 years before Christ was thought not extravagant, were used at least as late as the Christian era. Indeed, their counterparts were seen in Africa by Lieut. Cameron three or four years ago. The existence of the stone, bronze, and iron ages, as long, successive, and universal periods, cannot be maintained. Africa, according to Dr. Livingstone, never had a stone age, iron having been worked there from time immemorial. In our own days, and such appears to have frequently been the case even among the prehistoric men, savages use rough stone, polished stone, and metallic weapons and tools at the same time.

There is good reason for supposing that many of the savage beasts now confined to Asia and Africa survived in Europe to a period that may be called prehistoric only because European civilization post-dated that of Asia, the cradle of the race. We know that the great Irish elk, by many regarded as the contemporary of the mammoth, still existed in the twelfth century of the Christian era, and a comparatively late survival is true of other creatures now extinct. The mere fact that savages appear to have been the earliest inhabitants of Europe is far from proving that such as they were the forerunners of civilized races everywhere. Our American tribes were preceded by superior races, and should one from the simple discovery of Esquimaux skeletons on our own continent infer that they were the ancestors of later immigrants, he would jump at no more unwar-

rantable conclusion than some European scientists have done in regard to their own continent.

It would be foolish and unjust, however, to assert that there are not difficult problems bearing on the origin and dispersion of the human race yet to be solved. Geology and palæontology have their appointed work to perform, and evolution may be a factor that cannot wholly be rejected.

Still, from reasons already mentioned, and which would gain strength by a more detailed presentation, it seems obvious that the claims of physical science to be the interpreter of all mysteries cannot be allowed. It leaves unexplained moral phenomena, and with them the life of history. If man has had nothing but bodily training, and no teacher but his environment, all these thousands of years, the testimony of his consciousness and the records of the past must be set aside.

We have not entered the field which science holds independently of history. Our survey covers only the territory occupied in common. Having summarized the arguments of the physicists, it remains to hear the other side. Man's mind, as well as his body, has something to say.

#### THE VOICE OF HISTORY.

We have seen that historical testimony is generally veracious,—at least, that it is founded on fact. Is it supposable that the sum total of evidence—general tradition—is less trustworthy than its parts? There are certain widespread beliefs that have come down from the earliest ages of which we have any record. In most of their forms there is a large accretion of fable, but the different witnesses, without the possibility of collusion, agree in several important points. There was a primitive golden age, or Eden. The serpent and the tree of life, the ruinous error of a woman, be she Eve or Pandora, the weekly division of time, and the story of the deluge, are more or less clearly incorporated in the majority of ethnic traditions. Further, we find that the different heathen faiths were most nearly monotheistic at the start, becoming gradually more corrupt and degenerate. There is not a prominent nation on earth whose authentic or semi-authentic history does not begin within a period of 3,000 years before the Christian era, with the possible exception of Egypt,

the chronology of which is still in dispute. Whether that kingdom was founded 3,000 or 6,000 years before Christ, it was fully civilized when first known, as were the great monarchies with which it contended for the supremacy at a later period. Of the immensely long antecedent dominion of gods and demi-gods claimed by Manetho it is not necessary to speak.

The newly established science of Ceramics, if we may dignify by that title the study of pottery, also affords evidence of the recent origin of civilized man. Dr. Prime, no mean authority, says,—

“We will not pause to discuss theories of the origin of the race. Art study is a study of facts; and where theory is employed, it is, as it always should be, merely a tool to be used in investigation, and thrown away unless investigation changes it from theory to fact. A school-boy’s theory is worth as much as a Newton’s, until proved, or disproved, by investigation. All study in every department of human art begins at a period not long after the Mosaic deluge. All art history, when traced toward its beginning, is found to commence at a time less than 5,000 years ago. There is no work of human hands, no result of human thought, ever known, whose date is fixed at more than 3,000 B. C. The earlier dates assigned by some able men, in contradiction of equally able men, to the Egyptian monuments of the ancient dynasties, are theoretic. The converging lines in the history of all human inventions and arts, in tombs, in architecture, in money, in forms of religion, in language spoken or written, above all in ceramic art, traced from their indirect divergence toward their place and time of origin, point to the western portion of Asia as the place where, and about 5,000 years ago as the time when, the history of man as read in his work must begin. The study of these arts, therefore, leads to the belief that prior to that time there were no men on the earth, or that a catastrophe of some kind had swept the major part of the race and their works from existence, and the remaining few began the history again in the western part of Asia.”

It would occupy at least two or three afternoons to present even in outline the argument from tradition and mythology for the common origin and common primitive faith of man. It may be said, however, first, that each nation which has pre-



served any part of a tradition, not borrowed from another nation, is an independent witness: and second, that if there exists a more than ordinarily clear and reasonable embodiment of the tradition, it is to be received as the earliest. I am aware that certain men claim that these beliefs have an exclusively subjective origin, or are generalizations from and exaggerations of some local event, but I trust I have already made it plain that common-sense is not the exclusive possession of modern times. When we find Alexander Von Humboldt quoting the 104th Psalm, and remarking, "We are astonished to find in a lyrical poem of such a limited compass the whole universe—the heavens and the earth—sketched with a few bold touches;" and adding, "Similar views of the cosmos occur repeatedly in the Psalms, and more fully perhaps in the 37th chapter of the Book of Job. The meteorological processes which take place in the atmosphere, the formation and solution of vapor, the play of its colors, the generation of hail, and the voice of the rolling thunder are described with individualizing accuracy; and many questions are propounded which we, in the present state of our physical knowledge, may indeed be able to express under more scientific definitions, but scarcely to answer satisfactorily"—when this knowledge of the arcana of physical science existed, there surely must have been the capacity to distinguish between imagination and observation, between fiction and fact. It would be very hard to convince the American people that they ought to celebrate the 4th of July as the anniversary of the Declaration of Independence, if independence had never been declared; and ancient nations would never have submitted to burdensome ceremonials had not antecedent facts justified their adoption.

If it be said that the ordinary estimates of the periods of history—estimates which are rather approximations than definite calculations, however—are insufficient for the acting out of the human drama, the same want of time has been objected to the possibility of pure evolution. In his first New York lecture Professor Huxley noticed the difficulty, but shoved it off his shoulders, declaring it did not belong to his department.

If the general course of humanity has been spontaneously progressive, the fact is not apparent in the part of the roll of history



open to our vision. Empire after empire has yielded to corruption and barbarism, and moldered away, but the challenge of Whately to cite a single example of a community that has risen from barbarism unaided by a superior nation has never been met.

Max Mueller is not infallible, but he has clearly shown in his current Hibbert lectures that the idea that fetichism is the primitive form of worship is unfounded. The earliest faiths known in history embodied some of the loftiest ideas, and so do many of the savage creeds of to-day. He says Africans who worship reptiles and adore gree-grees exhibit "clear traces of a worship of spirits residing in different parts of nature, and of a feeling after a Supreme Spirit alike hidden and revealed by the sun and sky. \* \* \* Fetichism, so far from being, as almost every historian tells us, a primitive form of faith, is, on the contrary, a secondary or tertiary formation—nay, a decided corruption of an earlier, simpler, and truer religion. If we want to find the true spring of religious ideas, we must mount higher. Stocks and stones were never the first to reveal the infinite before the wondering eyes of man."

#### CONCLUSION.

This declaration of Mueller, in a department where he is entitled to speak with confidence, is hardly less conclusive than his former illustration of the impossibility of the utterances of brutes being developed into the voice of man. With his testimony we rest the case, not for lack of material, but for want of time.

If that which explains man's physical nature be science, certainly that which covers his moral, social, and intellectual characteristics, interpreting his essence by their working under all circumstances and in all times, is at least equally worthy of the distinction. I have summed up the leading points of the evidence. It is for you to render the verdict for or against the Credibility of History.

ANNUAL MEETING.

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CONCORD, N. H., June 9, 1880.

The fifty-eighth annual meeting of the society was held this day, at eleven o'clock A. M., at its library room, the president in the chair.

The record of the last meeting was read and approved.

Mr. S. C. Eastman made a statement from Hon. George G. Fogg, corresponding secretary, who, on account of illness, requested to be relieved from further service.

The report of the treasurer, Mr. S. S. Kimball, was presented, read, and accepted. The report showed debits, \$4,122.35; credits, \$188.52; balance, June 8, 1880, \$3,933.83.

Mr. S. C. Eastman, librarian, presented his annual report, which was read and accepted. From this report it appeared that the additions to the library during the past year had been 681 pamphlets and 108 volumes. Of these 7 pamphlets and 12 volumes were purchased for very trifling sums, and the remainder were gifts. Large numbers of newspapers had also been received.

A communication from F. W. Hackett, of the committee on the subject of securing the better preservation of early town records and others of a public character, was read, reporting progress, and expressing the hope that a report might be made in season for the next session of the legislature. The committee was continued.

A committee was appointed to nominate officers.

Pending the appointment of a committee to nominate new members, Mr. J. M. Shirley moved that Miss Amanda B. Harris, of Warner, be elected a member of the society. Mr. S. C. Eastman moved an amendment, to the effect that it is the sense of this society that ladies are eligible to membership therein, which amendment was accepted by Mr. Shirley in lieu of his original motion, and was passed. Thereupon the committee to nominate new members was appointed.

Mr. Burrows, from the committee to nominate officers, reported a list. The report was accepted, and the following named gentlemen were elected to the offices therein designated, as follows :

*President*—Charles H. Bell ; *Vice-Presidents*—Natt Head, Jonathan E. Sargent ; *Corresponding Secretary*—John J. Bell ; *Recording Secretary*—Amos Hadley ; *Treasurer*—Samuel S. Kimball ; *Librarian*—Samuel C. Eastman ; *Publishing Committee*—William L. Foster, John J. Bell, Erastus P. Jewell ; *Standing Committee*—Joseph B. Walker, Sylvester Dana, Joseph C. A. Hill ; *Library Committee*—Joseph B. Walker, James DeNormandie, Samuel C. Eastman.

The president read brief memorial notices of the following recently deceased members : Hon. George W. Patterson, of New York ; John Scribner Jenness, of Portsmouth ; Rev. Silas Ketchum, Francis A. Faulkner, of Keene.

On motion of Mr. J. B. Walker, thanks were tendered the president for these notices, and copies of the same were requested for deposit in the archives of the society.

On motion of Mr. J. J. Bell,—

*Resolved*, That hereafter it be the duty of the standing committee to see that memorial notices of deceased members are prepared.

On motion of Mr. J. B. Walker, the duty of preparing more extended memorial notices of the following deceased members was assigned to the following gentlemen : Of F. A. Faulkner, to C. H. Bell ; of John S. Jenness, to F. W. Hackett ; of Hon. George W. Patterson, to Robert C. Mack.

On motion of Mr. J. B. Walker,—

*Resolved*, That a committee of three be appointed by the chair to investigate and report upon the number and services of the New Hampshire troops engaged in the battle of Bunker Hill, and that they report at the next annual meeting of the society.

Messrs. Joseph B. Walker, George W. Nesmith, and S. T. Worcester were appointed the committee under the foregoing resolution.

On motion of Mr. S. C. Eastman, a committee, consisting of Messrs. S. C. Eastman, J. E. Sargent, and J. J. Bell, was

appointed by the chair to propose a plan for procuring copies of papers in the State Paper Office in London, or in any other public office or institution in England, relating to the early history of New Hampshire.

On motion of Mr. J. M. Shirley, the subject of the proper observance of the Yorktown anniversary was referred to the same committee.

By request, Mr. Charles W. Tuttle, of Boston, made a statement respecting papers on file in England, giving some account of his researches as to the life of Capt. John Mason; also reading a copy of the will of Sir Ferdinando Gorges, and showing a *fac-simile* of the signature of William Blaxton, the first settler of Boston.

Adjourned till 2 P. M.

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#### AFTERNOON SESSION.

The society met according to adjournment, the president in the chair.

Hon. Charles Levi Woodbury, of Boston, delivered an address on "The Influence of the Fisheries on the Discovery and Settlement of North America."\*

The thanks of the society were tendered the orator for his able and instructive address, and a copy of the same was requested for deposit in the archives of the society.

On motion, the recording secretary, Gov. Head, and S. C. Eastman were appointed a committee to select an orator for the next annual meeting.

On suggestion of the president, Mr. J. B. Walker offered the following resolutions, which were adopted:

*Resolved*, (1) That recognizing the utility and value of the volumes of the American Archives which have already been published, the N. H. Historical Society hereby express their desire and hope that the work may be continued by the publication of other volumes, as recommended by the librarian of congress.

(2) That a copy of this resolution be forwarded to the chairman of the committee of congress on the library.

\* This address has been printed in a pamphlet.

On motion, an assessment of \$3 on each resident member was ordered for the ensuing year.

Mr. Runnels, from the committee appointed to nominate new members, reported the following named persons, who upon the acceptance of the report were unanimously elected members of the society, as follows :

#### RESIDENT MEMBERS.

Edward S. Cutter, of Nashua ; John N. McClintock, of Concord ; Charles E. Batchelder, of Portsmouth ; Miss Amanda B. Harris, of Warner ; Miss Alma J. Herbert, of Concord ; Miss Catharine A. Sanborn, of Hanover ; Miss Annie Nesmith, of Franklin ; Frank D. Currier, of East Canaan.

#### CORRESPONDING MEMBERS.

Prof. Henry W. Haynes, Charles P. Greenough, of Boston ; Hon. E. H. Elwell, Portland, Me. ; Royal Woodward, Albany, N. Y. ; Rev. Charles D. Barrows, Lowell, Mass. ; Miss Eliza J. Cate, Northampton, Mass.

#### HONORARY MEMBERS.

Hon. George T. Curtis, New York ; Rear-Admiral George H. Preble, Boston, Mass. ; Pres't Daniel C. Gilman, Baltimore, Md. ; Charles W. Tuttle, Boston, Mass. ; Prof. N. B. Webster, Norfolk, Va. ; Jonathan Marshall, New York.

Collections of papers pertaining to the military history of the state, belonging to Col. Timothy Bedel, of the Revolution, Moody Bedel, of the War of 1812, and Gen. John Bedel, late of Bath, presented by Mrs. Mary E. Bedel, of Bath, were accepted, with the thanks of the society to the donor.

On motion of Gov. Head, it was ordered that the president, recording secretary, and J. B. Walker, be a committee to examine the "Bedel Papers," and make proper disposition of the same.

Adjourned.



## SPECIAL MEETING.

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PORTSMOUTH, December 29, 1880.

A special meeting of the N. H. Historical Society, having been duly notified, was held at the chapel of the South Parish, Court street, in Portsmouth, on the evening of December 29, 1880, the president, Hon. C. H. Bell, in the chair.

W. H. Hackett was chosen recording secretary *pro tempore*.

The president stated that the meeting had been called to celebrate the two hundredth anniversary of the establishment of a provincial government in New Hampshire, and it had been deemed appropriate that the services of the occasion should be held in this place, where the proceedings now commemorated were enacted. He then presented the orator of the occasion, Charles W. Tuttle, Esq., of Boston.

Mr. Tuttle's address was then delivered to a goodly audience in point of numbers, consisting of members of the society from Exeter, Concord, Dover, Littleton, and other places, while from Portsmouth were many members of the society, and present and former residents of the city.

The address was listened to with the closest attention, and received many commendations from the gratified listeners. At its close, thanks were tendered the orator, and a copy of his able, interesting, and instructive address was requested for publication by the society.

Adjourned.

## ANNUAL MEETING.

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CONCORD, N. H., June 8, 1881.

The fifty-ninth annual meeting of the society was held this day at eleven o'clock A. M., at its library room, the president in the chair.

The records of the last annual and special meetings were read and approved.

The recording secretary reported acceptance of membership by the following persons, elected in 1880, namely,—

## RESIDENT MEMBERS.

Miss Alma J. Herbert, of Concord; Miss Amanda B. Harris, of Warner; Miss Annie Nesmith, of Franklin.

## CORRESPONDING MEMBERS.

E. H. Elwell, Portland, Me.; Charles P. Greenough, Henry W. Haynes, Boston, Mass.; Royal Woodward, Albany, N. Y.

## HONORARY MEMBERS.

Pres't D. C. Gilman, of Johns Hopkins University, Baltimore, Md.; Rear-Admiral George H. Preble, Brookline, Mass.; Charles W. Tuttle, Boston, Mass.; Prof. N. B. Webster, Norfolk, Va.

The report of the treasurer, Mr. S. S. Kimball, was presented, read, and accepted. The report showed debits, \$4,615.90; credits, \$365.77; balance, June 8, 1881, \$4,250.13,—being an increase the past year of \$316.30.

The librarian, S. C. Eastman, presented his report, which was accepted. By this report it appeared that the library had been open 54 days during the year,—Tuesday of each week, and two other days,—and that D. F. Secomb had acted as assistant librarian, and been in charge of the library when open. The additions had been 252 volumes and 741 pamphlets. Of these, 230 volumes and 741 pamphlets were gifts, and the remainder were procured by exchange or purchase.

No formal reports were made from the standing and publishing committees.

The president suggested that the late Hon. Nathaniel White, Hon. Micajah C. Burleigh, and Gen. James Wilson were persons worthy of memorial notices, and that it was desirable that persons be designated to prepare memoirs of the same.

Further time was allowed to the special committees appointed at the last annual meeting, upon the number and services of New Hampshire troops at Bunker Hill; upon procuring copies of papers in England relating to early New Hampshire history; upon the proper observance of the Yorktown centennial; and upon the "Bedel Papers."

Committees were appointed to nominate officers and new members.

Mr. J. B. Walker, from the committee appointed to nominate officers, reported a list. The report was accepted, and the gentlemen therein nominated were elected to the offices designated, as follows:

*President*—Charles H. Bell; *Vice-Presidents*—Natt Head, Jonathan E. Sargent; *Corresponding Secretary*—John J. Bell; *Recording Secretary*—Amos Hadley; *Treasurer*—Samuel S. Kimball; *Librarian*—Samuel C. Eastman; *Publishing Committee*—William L. Foster, John J. Bell, Jonathan E. Sargent; *Standing Committee*—Joseph B. Walker, Sylvester Dana, Joseph C. A. Hill; *Library Committee*—Joseph B. Walker, James DeNormandie, Samuel C. Eastman.

The president presented the request of Daniel McGregor for the return to him of a "Petition of Inhabitants of the North of Ireland for township of land," which request was referred to the standing committee.

The president called the attention of the society to the fact that a valuable collection of autograph letters and other interesting manuscript matter had been presented to the society by Hon. George S. Hale, of Boston, son of the late Hon. Salma Hale, of Keene,—the collection having been made by the donor's sister, the late Mrs. Harry Hibbard. Whereupon, on motion of Hon. George W. Nesmith,—

*Resolved*, That the thanks of this society be tendered to Hon. George S. Hale, of Boston, for his gift of the valuable collection of autograph

letters and other interesting matter, once the property of his sister, the late Mrs. Harry Hibbard.

Mr. J. J. Bell, from the committee to nominate new members, reported the following named persons, who, upon the acceptance of the report, were unanimously elected members of the society, as follows :

#### RESIDENT MEMBERS.

Frank W. Proctor, of Andover; Rev. Warren R. Cochrane, of Antrim; Rev. Dr. Alonzo H. Quint, Col. Aaron H. Young, of Dover; Mrs. Mary E. Bell, Mrs. John C. Long, of Exeter; Dr. A. R. Gleason, of Fitzwilliam; Rev. J. B. Harrison, of Franklin; Miss Mary E. Kimball, Mrs. C. E. Benton, of Lebanon; Gilbert P. Whitman, of Manchester; Alexander McCauley Wilkins, of Merrimack; Hon. Dexter Richards, of Newport; Alvin Burleigh, Charles A. Jewell, of Plymouth; Commodore C. W. Pickering, A. S. Wentworth, John J. Pickering, Robert C. Pierce, Lewis W. Brewster, A. F. Howard, Mark H. Wentworth, Dr. Frank Langdon, of Portsmouth; Dr. J. J. Dearborn, of Salisbury; Mrs. Julia A. Hodgdon, of Weare.

#### CORRESPONDING MEMBERS.

Rev. E. F. Slafter, Hon. George S. Hale, of Boston, Mass.; Rev. J. L. Seward, Lowell, Mass.; Abner C. Goodell, Salem, Mass.; Dr. J. T. Gilman, Portland, Me.; Addison Prescott, Topeka, Kansas; William Dinsmore, New York city; Major L. A. Huguet-Latour, Montreal.

#### HONORARY MEMBERS.

Mrs. Frances McNeil Potter, Brooklyn, N. Y.; Miss Emma Elizabeth Gibson, Medford, Mass.; Hon. William McCauley, Salem, Roanoke Co., Virginia; William C. Prime, New York; Hon. Robert C. Winthrop, Boston, Mass.

On a motion of Mr. Spalding, of Nashua, amended by one made by Judge Nesmith, Messrs. S. T. Worcester and W. L. Foster, were appointed to prepare a memorial notice of the late Mrs. Hibbard.

On motion of Mr. J. B. Walker, an assessment of three dollars was laid upon each resident member for the current year.

Mr. J. B. Walker read a memoir of the late Richard Bradley,

of Concord;\* and Rev. James DeNormandie, a memoir of the late William H. Y. Hackett, of Portsmouth.†

On motion of Ex-Gov. Head, the thanks of the society were tendered Messrs. Walker and DeNormandie for the interesting and valuable memoirs read by them, and copies of the same were requested for deposit in the archives of the society.

The society then adjourned to meet again at 7:30 P. M., in Rumford hall.

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#### EVENING SESSION.

The society met in Rumford Hall, according to adjournment, the president in the chair.

Judge Sargent, from the committee to nominate new members, made a supplementary report, nominating William F. Warner, Esq., of Waverly, N. Y., as a corresponding member. The report was accepted, and William F. Warner was elected.

William C. Prime, Esq., of New York, the orator of the occasion, was then introduced, who delivered an address on "The Historical Relations of Art."

On motion, the thanks of the society were tendered the eloquent speaker for his interesting and instructive address.

Adjourned.

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#### ANNUAL MEETING.

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CONCORD, N. H., June 14, 1882.

The sixtieth annual meeting of the society was held this day, at eleven o'clock A. M., at its library room, the president in the chair.

The record of the last annual meeting was read and approved.

The recording secretary reported the names of persons who had accepted membership the past year as follows:

\* This sketch was subsequently printed in the *Granite Monthly*, vol. 4, p. 395.

† Printed in *Granite Monthly*, vol. 5, p. 58.



## HONORARY MEMBERS.

Hon. William McCauley, Salem, Roanoke Co., Va.; E. Elizabeth Gibson, Medford, Mass.; Mrs. Frances McNiel Potter, Brooklyn, N. Y.; Hon. Robert C. Winthrop, Boston, Mass.

## CORRESPONDING MEMBERS.

Rev. J. L. Seward, Lowell, Mass.; Addison Prescott, Topeka, Kansas; Dr. J. T. Gilman, Portland, Me.; Abner Cheney Goodell, Salem, Mass.; W. T. Warner, Waverly, N. Y.; Major L. A. Huguet-Latour, Montreal.

## RESIDENT MEMBERS.

Mrs. Mary E. Bell, Mrs. John C. Long, of Exeter; Mary E. Kimball, of Lebanon; Mrs. Julia A. Hodgdon, of So. Weare; Gilbert T. Whitman, of Manchester; M. H. Wentworth, Dr. Francis E. Langdon, Commodore C. W. Pickering, of Portsmouth; Hon. Dexter Richards, of Newport; Rev. W. R. Cochrane, of Antrim; Frank W. Proctor, of Andover; Dr. J. J. Dearborn, of Salisbury.

Mr. Samuel S. Kimball, treasurer, presented his report, which was read and accepted. The report showed debits, \$4,888.80; credits, \$202.70; balance, \$4,686.10; increase during the year, \$435.97.

Mr. Samuel C. Eastman, librarian, presented his report, which was read and accepted. The report stated that the additions to the library had been 360 volumes and 1007 pamphlets. Of these, 323 volumes and 904 pamphlets were gifts, and the remainder were purchased at a total cost of \$11.50 in money, and some exchanges.

Mr. J. B. Walker, of the standing committee, made a verbal report, which was accepted.

Judge S. T. Worcester, from the special committee on the number and services of New Hampshire troops at Bunker Hill, presented an elaborate report, which was read and accepted, and, on motion of Mr. J. M. Shirley, a copy of the same was requested for publication.

Committees were appointed to nominate officers and new members.

In the absence of Mr. W. L. Foster, of the committee appointed to prepare a memorial of the late Mrs. Harry Hibbard,

Mr. S. C. Eastman read a memoir of Sarah King Hale Hibbard, prepared by Judge Foster.\*

The president read a paper descriptive of the Hibbard collection of manuscripts, made by the late Mrs. Hibbard, and presented to the society by her brother, Hon. Geo. S. Hale, of Boston, and closed by offering the following resolution :—

*Resolved*, That the thanks of the New Hampshire Historical Society be presented to the Hon. Geo. S. Hale for the extensive and valuable collection of manuscripts, formed by his sister, Mrs. Sarah K. Hibbard, and now by him presented to the society, and that the same be always kept together, as now arranged, and be known as “The Hibbard Manuscripts;” and be subject to the same regulations as to accessibility as were adopted in regard to “The Webster Papers.”

The foregoing resolution was adopted, and, on motion of Mr. J. B. Walker, the memoir of Mrs. Hibbard and the paper descriptive of the “Hibbard Manuscripts,” or copies of the same, were ordered on file in the archives of the society.

The society then adjourned till 1 :45 P. M.

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### AFTERNOON SESSION.

The society met according to adjournment,—the president in the chair.

A report by D. F. Secomb, concerning sundry newspapers and articles of historic interest, received during the year, was read and accepted. Among these articles were the tassels attached to the flag which draped the box in which President Lincoln sat when he was assassinated by Booth,—presented by Hon. E. Ashton Rollins; a drum, carried by Nathan W. Gove, Jr., of Concord, in the 3d Regiment, N. H. Vols., through the Civil War, from 1861 to 1865, he being but 13 years old when he enlisted—presented by his mother.

The president, in behalf of Mrs. Peter Harvey, of Boston, presented to the society the beautiful silver pitcher and salver, given by Daniel Webster to Peter Harvey, and spoke as follows :

\*Since printed in a pamphlet.

“On the 23d day of October, 1852, Daniel Webster, just as he was about bidding adieu to the scenes of earth, being desirous of leaving some substantial token of his affection to one of the most devoted of his friends, gave this direction to his son Fletcher :

“ ‘My son, take a piece of silver, let it be handsome, put a suitable inscription on it, and give it, with my love, to Peter Harvey.’

“It was a kind and graceful and proper act of the departing statesman to do. Mr. Harvey had been for a long series of years his near, constant, and disinterested helper, adviser, and friend. Relations of intimacy were established between them when Mr. Harvey was but a young man, while Mr. Webster had reached middle age, and was maintained, notwithstanding the disparity of their years and the different paths in life they trod, up to the last hour of their joint lives. Nor after the grave had separated them did Mr. Harvey’s affection for his deceased friend ever fail, or ever languish. He cherished his memory with jealous care so long as he survived, and dying he left a legacy to posterity of his reminiscences of Webster, which constitute a portraiture that will be interesting through all time, and is in some respects without a parallel.

“Mr. Webster’s last wishes were religiously observed by his son. A beautiful and massive salver and pitcher of silverware were chosen as a suitable memorial, and upon the former were inscribed (by Mr. Harvey’s desire) the very words of Daniel Webster’s dying injunction : words worthy of the tender friendship which so long subsisted between the donor and the recipient—worthy of the illustrious man who was then passing down to the tomb, ‘calmly as to a night’s repose.’

“These elegant and costly pieces of silver are before us to-day. They were dearly prized, and shown with a pardonable pride by their possessor during his life-time, and, at his decease, were wisely left at the absolute disposal of his wife. To Mrs. Harvey these joint memorials of Daniel Webster and her husband are equally precious, and she has anxiously deliberated where they could be deposited in the full assurance that they would be best appreciated and most carefully preserved. It is a gratifying circumstance that she deems the historical society

of Mr. Webster's native state their fittest custodian, and accordingly has presented them to us.

"A splendid gift indeed! The intrinsic value of the material is far surpassed by the beauty of the workmanship; but both these are as nothing in comparison with the interest which attaches to the articles by reason of their history and associations. Memorials of Webster, gauges of the loving friendship he bore to Peter Harvey, they will always remain among the most cherished possessions of our society.

"Mrs. Harvey has, at my request, caused a presentation inscription from herself to the society to be engraved upon the silver, and accompanies her gift with this appropriate communication:

"BOSTON, April 24, 1882.

"HON. CHARLES H. BELL:

"*Dear Sir:*—After due consideration I have deemed it desirable and peculiarly fitting to present to the Historical Society of New Hampshire, and through you, its president, the valuable pitcher and salver given by Daniel Webster as a last token of appreciative regard to my late husband, Peter Harvey, for years of devoted service and loyalty of affection unequalled; and I am confident that nowhere could this precious memorial of the truest of friendships be more highly prized or more deeply valued than by the historical society of Mr. Webster's native state.

"Actuated by these motives, I now commend this valued and valuable silver, rich in the associations of the past, to your society for safe-keeping and perpetual guardianship through all time. With great respect, believe me to be

"Most cordially yours,

"ELIZABETH F. HARVEY."

"I propose to the society the adoption of the following resolution:

"*Resolved*, That the New Hampshire Historical Society accept from Mrs. Peter Harvey, with grateful acknowledgments, and will ever sacredly preserve, the beautiful pieces of silver which were the dying testimonial of the love of Daniel Webster to her husband."

The foregoing resolution, offered by the president, was adopted.

The president, with commendatory remarks, acknowledged,

in behalf of the society, the receipt of the second volume of the History of Sanbornton, prepared by Rev. M. T. Runnels.

The president read a poem, entitled "Our Mountain Land," written by George E. Emery, now a resident of Lynn, Mass.

A memoir of Hon. Harvey Jewell, of Boston, prepared by W. H. Hackett, Esq., of Portsmouth, was read by Mr. S. C. Eastman; and, on motion of Mr. J. J. Bell, thanks were tendered to Mr. Hackett, and a copy of the memoir was requested for deposit in the archives of the society.\*

On motion of Mr. J. J. Bell, a committee on the subject of town histories, suggested in a paper presented to the society earlier at its present session, was appointed by the chair, consisting of Messrs. J. J. Bell, S. T. Worcester, and J. J. Dearborn.

Mr. J. B. Walker offered the following resolution, which was adopted:

*Resolved*, That the president be hereby requested to appoint a *field-day* of this society, to be held at such time and place as he may see fit.

On motion of Mr. S. C. Eastman, the publishing committee was requested to publish the transactions of the society to the present time, and also to consider the propriety of publishing another volume of collections.

Mr. John Kimball gave information that the late Mrs. Nathaniel G. Upham had left a portrait of her father, Rev. Dr. Burnham, of Pembroke, to the society, and had also provided by will that a portrait of her husband, Judge Upham, be procured for the society. Whereupon, on motion of Mr. John C. Thorn, it was voted that the society accept with pleasure the bequest of the late Mrs. Nathaniel G. Upham, of Concord, of portraits of her father, the late Rev. Abraham Burnham, of Pembroke, and of her husband, the late Hon. Nathaniel G. Upham, and that they be placed in the library of the society.

Mr. J. B. Walker, from the committee appointed to nominate officers, made a report, which was accepted, and the gentlemen therein nominated were elected to the offices designated, as follows:

\* Printed in the Granite Monthly, vol. 6, page 201.



*President*—Charles H. Bell; *Vice-Presidents*—Jonathan E. Sargent, John M. Shirley; *Corresponding Secretary*—John J. Bell; *Recording Secretary*, Amos Hadley; *Treasurer*—Samuel S. Kimball; *Librarian*—Samuel C. Eastman; *Publishing Committee*—William L. Foster, John J. Bell, Moses T. Runnels; *Standing Committee*—Joseph B. Walker, Sylvester Dana, Joseph C. A. Hill; *Library Committee*—Amos Hadley, Parsons B. Cogswell, Samuel C. Eastman.

Mr. Woodbridge Odlin was chosen auditor.

It was voted that the annual assessment upon resident members of the society be three dollars each, until otherwise ordered.

Judge Sargent, from the committee appointed to nominate new members, reported the following named persons, who, upon the acceptance of the report, were unanimously elected members of the society :

#### RESIDENT MEMBERS.

Arthur L. Meserve, of Bartlett; Walter Gibson, William P. Fiske, Mrs. Abba Goold Woolson, Mrs. John C. Thorn, of Concord; A. R. Brown, of East Kingston; Moody Currier, Dr. John Edwin Mason, of Manchester; Mrs. Emma Manning Huntley, of Milford; Orrin C. Moore, of Nashua; Wallace Hackett, of Portsmouth; Rev. J. H. Fitz, of So. Newmarket; Leonard A. Morrison, of Windham.

#### CORRESPONDING MEMBERS.

George E. Emery, Lynn, Mass.; Dr. Edmund T. Eastman, John L. Emmons, Boston, Mass.; Rev. Miss Ellen Gibson, Barre, Mass.; Rev. Edward G. Porter, Lexington, Mass.; William R. Cutter, Woburn, Mass.; Hon. John H. Prescott, Salina, Kansas; Hon. Samuel Merrill, Des Moines, Iowa.

The society then adjourned, to meet again at 7:45 P. M., at Rumford hall.

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#### EVENING SESSION.

The society met according to adjournment—the president in the chair.

Prof. Henry W. Haynes, of Boston, the orator for the year, delivered an address on “The Fossil Man.”

On motion of Mr. J. B. Walker, the thanks of the society were tendered the orator for his interesting and instructive address, and a copy of the same was requested for deposit in the archives of the society.

Adjourned.

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## FIELD DAY.

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TUESDAY, OCTOBER 10, 1882.

In accordance with the resolution adopted at the last annual meeting, the president selected Dover as the place, and Tuesday, October 10, 1882, as the time, for the holding of the first field-day of the society.

Upon due notification, a goodly number of members from various parts of the state assembled at the American House, in Dover, at 11 o'clock A. M., in accordance with arrangements made by a committee of reception of the citizens of that place, headed by the mayor, Hon. C. M. Murphy.

Thence the party took carriages for Dover Neck and Point, visiting at the latter locality the site of the settlement in 1623, and at the former that of the first church edifice erected in New Hampshire.

Upon return to the American House a sumptuous dinner was served, at the close of which Gov. Bell, president of the society, with appropriate remarks, offered a resolution of thanks to the members of the society resident in Dover, and other citizens of the city, for their generous hospitality, which was unanimously adopted.

During the afternoon other sites of historic interest were visited, such as the cemetery in which were deposited the remains of Maj. Waldron, slain in the Indian attack of 1689; the sites of Waldron's and Hurd's garrisons, famous in the story of that memorable event; the locality of Waldron's saw- and grist-mills at the falls of Cochecho; and in another part of the city a well preserved dwelling-house, nearly two hundred years old, and still occupied. The pleasant afternoon ramble also included Garrison hill, with its fine and extensive prospect.

All who participated in the enjoyments of this field-day felt that it was the auspicious inception of a practice destined to promote, in a pleasant and profitable manner, the interests of the society.

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## ANNUAL MEETING.

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CONCORD, N. H., June 13, 1883.

The sixty-first annual meeting of the society was held this day, at its library-room, at 11 o'clock A. M., the president in the chair.

The records of the last annual meeting and field-day were read and approved.

The corresponding secretary, Mr. J. J. Bell, presented his report, which was accepted. The report announced the acceptance for this society of its election to a membership of the Clarendon Historical Society, Edinburgh, Scotland. The secretary also submitted a circular from the N. E. Genealogical Society, relating to the "Col. Chester Papers," and the proposed continuance of Col. Chester's labors under the superintendence of that society.

The recording secretary reported that the following persons had accepted membership during the past year :

### RESIDENT MEMBERS.

Dr. John Edwin Mason, Manchester ; Wallace Hackett, Portsmouth ; Andrew H. Young, Dover ; Hon. Moody Currier, Manchester ; Rev. James H. Fitts, So. Newmarket ; Leonard A. Morrison, Windham.

### CORRESPONDING MEMBERS.

William R. Cutter, Woburn, Mass. ; Dr. Edmund T. Eastman, Boston, Mass. ; George E. Emery, Lynn, Mass. ; Hon. Samuel Merrill, Des Moines, Iowa ; Rev. Edward G. Porter, Lexington, Mass. ; Hon. John H. Prescott, Salina, Kansas ; Ella E. Gibson, Barre, Mass.

The report of the treasurer, Mr. S. S. Kimball, was presented and accepted. The report showed debits, \$7,157.95; credits, \$302.82; balance, \$6,855.13; increase the past year, \$2,169.03.

The treasurer being absent, Mr. J. C. A. Hill was appointed to serve in his stead during the meeting.

The report of the librarian, Mr. Samuel C. Eastman, was presented and accepted. The report stated that the library had been open 51 half days during the past year, on Tuesdays, and at other times as required by visitors; 640 bound volumes and 640 pamphlets had been added during the year, of which 331 volumes were purchased, 20 pamphlets were received in exchange for duplicates, and 365 volumes and 600 pamphlets were gifts to the society.

Committees were appointed to nominate officers and new members.

Rev. W. R. Cochrane, of Antrim, was appointed in place of Judge S. T. Worcester, deceased, on the committee in relation to town histories, appointed in 1882.

Mr. J. B. Walker, from the standing committee, made a verbal report, accompanied by a recommendation of the following votes, which were severally read and adopted:

*Voted*, That the volumes of Town Papers, now being published by the state, of each of which this society receives fifty copies, be sold only with the Provincial Papers, and as parts of entire sets, at the price heretofore established by the society.

*Voted*, That the thanks of the society be presented to Hon. A. B. Thompson for aid in obtaining the annual town and school reports in this state the past three years for the use of the society.

*Voted*, That a field-day be held by the members of the society the present year, at such time and place as the president may designate.

Hon. Moody Currier, from the committee to nominate officers, made a report, which was accepted, and the gentlemen therein nominated were elected to the offices designated, as follow:

*President*—Charles H. Bell; *Vice-Presidents*—Jonathan E. Sargent, John M. Shirley; *Corresponding Secretary*—John J. Bell; *Recording Secretary*—Amos Hadley; *Treasurer*—Samuel S. Kimball; *Librarian*—



Samuel C. Eastman; *Publishing Committee*—William L. Foster, John J. Bell, Moses T. Runnels; *Standing Committee*—Joseph B. Walker, Sylvester Dana, Joseph C. A. Hill; *Library Committee*—Amos Hadley, Parsons B. Cogswell, Samuel C. Eastman.

The president laid before the society a communication from Gen. Eaton, of the National Bureau of Education, respecting a Centennial Record of the United States; and a committee to consider the subject, and to listen to the representations of Hon. F. B. Hough thereon, was appointed, consisting of Messrs. J. E. Sargent, John Kimball, and Sylvester Dana.

On motion of Mr. J. J. Bell, a committee to examine certain papers, now in the possession of Mrs. Gerrish, of Kittery, Me., relating to the early history of the state, was appointed, consisting of Messrs. A. H. Quint of Dover, W. H. Hackett of Portsmouth, and John T. Perry of Exeter.

A letter to Mr. S. C. Eastman, written by Henry Stevens of Vermont, from London, was read, relating to historical papers pertaining to the early history of New England, including New Hampshire, now to be found in English libraries and other repositories. Mr. Stevens suggested a method of collecting and compiling this historical material, as had recently been done by the New Jersey Historical Society, by legislative aid.

Accordingly a committee to bring this subject before the legislature, and to procure, if possible, a requisite appropriation, was appointed, consisting of Messrs. J. M. Shirley, S. C. Eastman, A. H. Quint, and J. J. Bell.

Mr. George E. Jenks, in behalf of the New Hampshire Press Association, presented, with appropriate remarks, portraits of Hon. Chandler E. Potter, and Col. Elbridge G. Eastman, of Nashville, Tenn., the former being the gift of Mrs. Frances McNiell Potter, by whom it was painted. After remarks by the president, and Messrs. S. C. Eastman and C. E. Staniels, the portraits were accepted, with a tender of thanks to the New Hampshire Press Association.

Mr. J. B. Walker, from the committee appointed to nominate new members, reported the following-named persons, who, upon the acceptance of the report, were unanimously elected, by ballot, members of the society:



## RESIDENT MEMBERS.

George S. Frost, Paul A. Stackpole, Dover ; William C. Todd, Greenleaf Clarke, Atkinson ; Prof. John H. Wright, Prof. Arthur S. Hardy, Hanover ; John T. Perry, Exeter ; Luther S. Morrill, George E. Jenks, Willis P. Haynes, Concord.

## CORRESPONDING MEMBERS.

Daniel Rollins, Boston, Mass. ; Mrs. Jacob G. Cilley, Cambridge, Mass.

## HONORARY MEMBERS.

Hon. Franklin B. Hough, New York.

Adjourned, to meet in Representatives' hall this evening, at 7:30 o'clock, to listen to the annual address by Mr. John M. Shirley.

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EVENING SESSION.

The society met according to adjournment, in Representatives' hall—the president in the chair.

The following resolution was adopted :

*Resolved*, That a committee of three be appointed by the chair, to take into consideration the propriety of making the history of the Scotch-Irish people, whose descendants have taken so conspicuous and important a part in the affairs of New Hampshire, a special branch of investigation by the society, with a view of interesting those of that lineage as members of the society, and of procuring publications relating to that subject for our library.

Messrs. W. R. Cochrane of Antrim, Leonard S. Morrison of Windham, and John N. McClintock of Concord, were appointed the committee under the foregoing resolution.

Mr. J. B. Walker, from the committee to nominate new members, presented an additional report, nominating the following named persons, who, upon the acceptance of the report, were unanimously elected, by ballot, members of the society :

## RESIDENT MEMBERS.

Dr. John Goodell, Hillsborough; George S. Pettee, Francetown; Hon. A. H. Dunlap, Nashua; Miss Annie Woodbury, Antrim; John M. Hill, Concord.

## CORRESPONDING MEMBERS.

Hon. William W. Tucker, Francis Boyd, Esq., Boston, Mass.; Rev. Thomas Witherow, D. D., Londonderry, Ireland.

J. M. Shirley, Esq., then delivered an address on "The Early Jurisprudence of New Hampshire."

The thanks of the society were tendered the speaker, and a copy of his valuable address was requested for deposit in the archives of the society.

Mr. J. M. Shirley, having been excused from serving upon the committee to seek legislative aid in procuring historical material in England, Hon. Henry Robinson, of Concord, was appointed in his stead.

Adjourned.

# THE ANNUAL ADDRESS,

JUNE 13, 1883.

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BY JOHN M. SHIRLEY, ESQ.

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## THE EARLY JURISPRUDENCE OF NEW HAMPSHIRE.

History is photography applied to human affairs. Imperfection in material, or lack of care and skill in the artist, may mar or spoil the work. Human bones wired together—the grinning skeleton in some surgical museum—are not the divine creation; but when clothed with flesh and blood, nerve and muscle, and endowed with the spirit which gives action, color, and tone, we recognize the creative individuality, the living man. The cold words of the statutes alone no more constitute the law of the land, than the articulated skeleton the living soul. They must be clothed with the interpretation given by the courts, to which must be added the law of custom, which constitutes four fifths of all the law we have, and which, like the air we breathe, animates and protects us in our homes, in our social gatherings, in our business relations, and in our private life. The spirit which pervades this great body of statutory and customary law, and in which it is administered, is as natural and vitalizing in jurisprudence as in the human animal.

Motion is the law of life; inertia, of decay and death.

There are zest, health, and pleasure in the cooling draughts from the mountain spring, but poison and fever in the stagnant waters of that “river of death,” the shaded Yazoo.

Between life and death there is an eternal struggle for the mastery. This is the result of a universal law. It pervades alike jurisprudence, the human form, and that infinity of starlit worlds, in comparison with which our own solar system is but a grain of sand upon the shore of the great ocean of infinite space.

There are many peculiarities in the jurisprudence of this state. These in general are the result of her early history. These differences would have been more marked had those who for a century made and administered our laws known more of that history. Much that is now known was a sealed book to them.

The chief-justices who gave color and form to so much of our legislation as well as our folk-lore law and law of custom, RICHARDSON and PARKER, except in name were Massachusetts men, and Judge PERLEY was so in fact. Even Chief-Justice SMITH, with all his diligence,—and it bordered close upon the marvellous,—was, as he tells us, unable to find the code of laws under which New Hampshire began her provincial life.

Under the lead of these men, and others, the process of assimilation with the jurisprudence of the mother country and of our sister New England states has gone on from generation to generation, until it is often difficult and sometimes impossible to identify the primitive formation. The fathers who laid the foundations of our institutions, making due allowance for their environments, in the main acted wisely; but the record they have left is often fragmentary, imperfect, and obscure.

There is another difficulty. No matter how accurate the portraiture, nor how much the light may predominate over the shade, it is almost impossible for the descendants of the Puritans to regard an accurate photograph as anything but a caricature of their ancestors. For illustration: Every child in the land, with glowing eye, looks forward to Christmas and Christmas eve, and every mother's heart grows warm at the thought. But two hundred and twenty-four years ago the law of New Hampshire, as well as of Massachusetts, was as follows:—

“For pventing disorders arising in seuerall places wthin

this jurisdiccon, by reason of some still observing such ffeſti-valls as were ſuperſtitiously kept in other countrys, to the great diſhonnor of God & offence of others, it is therefore ordered by this Court and the authority thereof, that whoſoever ſhall be found observing any ſuch day as Chriſtmas or the like, either by forbearing of labour, feaſting, or any other way, upon any ſuch accounts as aforeſaijd, every perſon ſo offending ſhall pay for euery ſuch offence five ſhillings, as a fine to the county.” 4 Records of Maſſ. (Part I) 366.

In 1660 the ſame body ſaid,—

“This Court, conſidering how farre Satan doth prevajle vpon ſeueral perſons with in this jurisdiction to make away themſelves, judgeth that God calls them to beare testimony againſt ſuch wicked and vnnaturall practiſes, that others may be deterred therefrom, doe therefore order, that from henceforth if any perſon, inhabitant or ſtrainger, ſhall at any time be found by any jury to lay violent hands on themſelves, or be wilfully guilty of their owne deaths, euery ſuch perſon ſhall be denjed the priviledge of being burjed in the comon burying place of Chriſtians, but ſhall be buried in ſome comon highway where the ſelectmen of the toun where ſuch perſon did inhabit ſhall appoint, & a cart loade of ſtones layd vpon the graue, as a brand of infamy, and as a warning to others to be ware of the like damnable practiſes.” 4 Records of Maſſ. (Part I) 432.

And yet hiſtory repeats itſelf. In 1824 Amos Fernald lived in what is ſtill known as the Ladd diſtrict in what is now Belmont. He was a married man, and ſtarved his illegitimate child to death in his own houſe. For this he was indicted, and imprifoned in the ſtate priſon.\* After his releaſe, he ſtarved to death too. Some ſaid he committed ſuicide by ſtarvation; others ſaid that by a ſpecial providence the Almighty had affected his throat with a peculiar diſeaſe by reaſon of which he was unable to take food, and ſo died. His body was buried in the Gulf neighborhood in what is now Tilton, about a mile from the village, but between the fence and the

\*Amos Fernald and his wife Abigail were indicted for murder at the September term, 1824. At the February term, 1825, the verdict was, guilty of manſlaughter. At the September term, 1825, Fernald was ſentenced to 30 days' ſolitary confinement in the ſtate priſon, hard labor therein for five years, and to pay coſts of proſecution taxed at \$255. He was defended by Jeremiah Maſon. 2 Trials in New Hampſhire.



travelled part of the road in what, in the mother country, would have been known as the king's highway.

On February 1, 1682, at Portsmouth, Edward Gove was indicted for high treason against the king's authority in New Hampshire. He was a fanatical, half drunken, and more than half crazy zealot. On February 2, 1682, he was arraigned, and the trial began. He was found guilty, and this was the sentence pronounced by our own Waldron :

That "he should be carried back to the place from whence he came and from thence be drawn to the place of execution, and be there hanged by the neck and cut down alive, and that his entrails be taken out and burnt before his face, and his head cut off, and his body divided into four quarters, and his head and quarters disposed of at the king's pleasure." 2 N. H. Hist. Col. 44.

From the earliest hours of the province every person was liable to arrest and to be imprisoned for debt. This looks like barbarism to us; and yet it was quite common here long after the commencement of the present century.

The mandate of the earliest processes was to "attach" or "to arrest" the body of the defendant, "and him safely keep." By the customary law, from the settlement of the province until years after the adoption of our present constitution, this mandate was construed by the high and the low, the learned and the unlearned, to authorize the sheriff to keep the dead body of the defendant above ground until the debt for which the suit was brought was paid.

On December 10, 1683, Cranfield issued his "order for the administration of the sacraments according to the mode of the Church of England."

Joseph Rayn, attorney-general for the king, filed two informations against Joshua Moodey for violation of the order, the last bearing date February 6, 1683-'4. On the latter date, Walter Barefoot, Henry Green, Peter Coffin, and Henry Roby sentenced Moodey to be imprisoned without bail or mainprize, and forthwith committed him to prison at Great Island. Mr. Moodey, in his church records, among other comments upon his judges, said,—“Robie was excommunicated out of Hampton church, for a common drunkard, and died excommunicate and

was by his friends thrown into a hole near his house *for fear of an arrest of his carcase.*" Farmer's Belknap 478.

All understood that a judge was as likely to have his "carcase" kept above ground after his decease as any one else.

Judge Chandler was the great man of eastern Vermont. He was confined for debt in jail at Westminster, opposite Walpole, N. H., in 1785. The legislature of Vermont, on June 16, 1785, passed an act discharging him from imprisonment on certain conditions. Before he could bring himself within the act, he died, June 20, 1785, four days after its passage. Mr. Hall, in his history of eastern Vermont, pages 583, 584, gives us this recital:

"For several days the corpse remained in the cell of the jail.  
\* \* At length, when the body had become so offensive as to endanger the health of the prisoners confined in the jail, Nathan Fisk, the jailer, suggested an expedient which was quickly put in practice. On measuring the jail liberties, he found that by stretching the chain he could include within them a small section of the adjoining burying-ground. A grave was then commenced just outside the grave-yard fence and just within the jail-yard limits. As the excavation advanced, it was directed obliquely under the fence until a sufficient depth and obliquity had been obtained. These preparations having been completed, the jailer in company with a few individuals entered in the silence of midnight the cell where the putrescent mass was lying, placed it in a rough box-like coffin, drew it on the ground to the spot selected for interment, and consigned to its last resting-place all that remained of the once noted Chandler.

"Thus was he buried within the jail limits, and yet by a very pardonable evasion of law, beneath the consecrated soil of 'the old Westminster church-yard.'"

Illustrations might be multiplied almost indefinitely. Let these suffice for the present.

The jurisprudence of New Hampshire follows her history, and must therefore be divided into periods.

The first covers the time from the first "scattered beginnings," to use the phraseology of Governor Bradford, to the union with Massachusetts.

"The Shoals"—"Smith's Isles"—were discovered first.

For obvious reasons they should have been the first inhabited by white men, but the date of the first settlement there seems to have been entirely unknown.

Portsmouth and Dover are commonly said to have been settled about 1623, although tradition assigns an earlier date for the advent of a few of those hardy, daring, and adventurous spirits who flock to an exposed outpost on the frontiers in obedience, as it were, to an irresistible law. The "bound house" in Hampton was erected in 1636, but that town and Exeter were settled in 1638.

"As the twig is bent the tree's inclined," is but the poetic expression of a general law. It applies to individuals and to the community of which they are a part, and of whose will they are the exponents. The man is but the child, with his powers developed and his character modified by association, training, and the hard discipline of life. This is equally true of New Hampshire as it has grown and developed step by step from these baby colonies.

Leadership is a born attribute in man. It dominates and moulds the course and conduct of others. In this respect political communities are but the reflex—the *alter ego*—of the men who make them what they are. In this sense a single man may constitute a town, a municipality, or a state. Here, as elsewhere, the strong dominate the weak, and often, if aggressive and unscrupulous, compel them to adopt a course alike contrary to their true interests and their better instincts. In this way even New Hampshire has sometimes "been brought to shame," and her sons and daughters in consequence have clad themselves in sack-cloth and ashes.

New Hampshire by her early history is broadly distinguished from her sister colonies. Others at some time or times had royal charters, but New Hampshire never had. In spirit even the colony of Plymouth and that of Massachusetts Bay, similar in so many respects, were as unlike as the waters of the Mississippi and the Missouri.

The founders of Plymouth were a sturdy people. They came, as a rule, from the industrious communities, and were neither rich, cultivated, nor numerous. Though by no means perfect, they were in general sincere. While in theory they were harsh

and intolerant, in practice they were far more lenient and tolerant than their younger, more thrifty, more courtly, and unscrupulous neighbors of the "Bay colony." The former were men who had suffered,—fanatical, it may be,—with marked virtues, strong passions, and human infirmities, but devoutly intent on founding the kingdom of God in the New World. The latter were a troop of grasping, crafty politicians, tolerant in speech but harsh and intolerant in act, intent on founding a pure democracy bottomed on a cast-iron religious aristocracy. The early settlers in New Hampshire had little in common with either.

From the pulpit, the bench, the bar, and the rostrum it has been said, and reëchoed in a great variety of forms, and with more or less of misty qualification, that all these brought with them the laws and institutions of the mother country. As respects New Hampshire, this was utterly false, and we shall see in the hereafter how far it was from the truth as respects the others.

The fathers did not come here to take to their hearts what they loathed, or to reënact what they hated. They did not, it is true, attempt to shake off their nominal allegiance to the British crown. Such an act could only have emanated from the bedlamites of some madhouse. Nor did they, when weighing the arguments for or against a proposed measure, ignore the lessons of British history and folk-lore law. In a word, they utilized their experience as a man whose house had been destroyed would when he came to build a new one. Beyond this they recognized but two sources of authority,—the Bible, and their own will as expounded by the freemen or their representatives, the general court.

The Plymouth colonists put their position beyond all doubt. Before they left the Mayflower they drew up and signed the following compact :

"In ye name of God, Amen. We whose names are underwritten, the loyall subjects of our dread soveraigne Lord, King James, by ye grace of God, of Great Britaine, Franc, & Ireland king, defender of ye faith, &c., haveing undertaken, for ye glorie of God, and advancement of ye Christian faith, and honour of our king & countrie, a voyage to plant ye first colonie in



ye Northerne parts of Virginia, doe by these presents solemnly & mutually in ye presence of God, and one of another, covenant & combine our selves together into a civill body politick, for our better ordering & preservation & furtherance of ye ends aforesaid; and by vertue hearof to enacte, constitute, and frame such just & equall lawes, ordinances, acts, constitutions, & offices, from time to time, as shall be thought most meete & convenient for ye generall good of ye Colonie, unto which we promise all due submission and obedience." Bradford's History 89, 90.

This was distinctly foreshadowed by Pastor Robinson in his lengthy letter to "the whole" before they left for these shores. Bradford's History 67; II John of Barneveld 295. Both are too clear for comment.

The Bay colonists really acted on principles somewhat akin to these, but, with characteristic shrewdness and diplomatic tact, while ostensibly doing one thing they really did another. They recognized for temporary purposes something of the English law and practice. They passed a few laws and ordinances of their own.

On August 23, 1630, they provided,—

"That the Gouvernr & Deputy Gounr, for the tyme being, shall alwaies be justices of ye peace; and that Sr Rich: Saltonstall, Mr. Johnson, Mr Endicott, & Mr Ludlowe shalbe justices of the peace for the psent tyme, in all things to haue like power that justices of peace hath in England for reformacon of abuses and punishing of offenders; and that any justice of the peace may imprison an offender, but not inflict any corporall punishmt without the psence & consent of some one of the Assistants. 1 Records of Mass. 74.

After the exhumation of the Jewish law, justices of the peace, as such, were unknown until the days of Andros.

On May 25, 1636, they took steps to establish the fundamental law of the commonwealth. They provided,—

"The Gounr, Deputy Gounr, Tho: Dudley, John Haynes, Rich: Bellingham, Esq, Mr Cotton, Mr Peters, & Mr Shephard are intreated to make a draught of lawes agreeable to the Word of God, wch may be the ffundamentalls of this comonwealth, & to present the same to the nexte Genall Court." 1 Records of Mass. 174.



But in the meantime, and at the same session, they provided for the temporary administration of justice as follows:

"And it is ordered, that in the meane tyme the magistrates & their associates shall pceede in the courts to heare & determine all causes according to the lawes nowe established, & where there is noe law, then as neere the lawe of God as they can; & for all busines out of Court, for wch there is noe certaine rule yet sett downe, those of the standing counsell, or some two of them, shall take order by their best discrecon, that they may be ordered & ended according to the rule of Gods Word, & to take care for all millitary affaires till the nexte Genall Court." 1 Records of Mass. 175.

Towns, churches, religious teachers, and the magistracy labored upon the embryo constitution. The matter was committed to two eminent ministers, John Cotton and Nathaniel Ward. Each framed a model. Cotton's plan, mild and beneficent for the age, was rejected. Ward's plan, after passing the ordeals named, was adopted in 1641. It comprised one hundred laws, and constituted the famed body of liberties.

Ward, who gave it its finishing touches, had passed the inns of court or of chancery, and practised law in the mother country, and of course was admirably adapted to give the doctrines of the Old Testament and the Jewish law a popular flavor.

Let us see what the colonists did.

Until 1662 they did not even recognize the supremacy of the king by issuing writs in his name. They discarded the whole system of crown law, and in 1641 the general court ordered "that no man's life shall be taken away, no man's honour or good name shall be stained, no man's person shall be arrested, restrained, banished, dismembered, nor any way punished; no man shall be deprived of his wife or children, no man's goods or estate shall be taken away from him, nor any way indamaged, under colour of law, or countenance of authority, unless it be by virtue or equity of some express law of the country warranting the same, established by a general court, and sufficiently published; or in case of the defect of a law, in any particular case, by the Word of God. And in capital cases, or in cases concerning dismembering, or banishment, according to that word, to be judged by the general court." Ancient Charters 43, 44.

For generations they rejected the benefit of clergy. They substituted for the law of England in relation to crimes the Mosaic code. They swept away the whole English law of descent and distribution, and established the doctrine of equality, but gave the eldest son a double share, in accordance with Jewish law. They made all the estates allodial. They annihilated the elaborate, artificial, subtle, and intensely complicated system of English conveyancing, and substituted another, brief, plain, and comprehensive. They discarded the whole British system for the administration of justice, and created another entirely unknown in the mother country. They provided that causes at law and in equity should be heard by the same tribunal, contrary to the English rule for centuries. They made real estate liable for debts, reconstructed the whole law of attachment, created the law of levy and extent, and established for legal purposes the sale at public vendue. They discarded the shrievalty, with its power of packing juries under the guise of selecting jurors. They substituted for this the marshalship, and election of jurors by town-meeting. They struck the Church of England under the fifth rib by making ministers elective teachers. They made marriage a civil contract, which no minister or clergyman for generations could solemnize. They rejected the doctrine of the Church of Rome and of the Church of England, the civil law, the common law, the statutory law of the mother country, and the canon law as expounded at Doctors' Commons in relation to divorce, and put it on an entirely new footing by adopting the third part of the mishna, or oral or common law of the Jews, in relation to divorce and the commerce of the sexes, and then amended the Word of God so that the county court, the courts of assistants, and the general court might grant a divorce from the bonds of matrimony, whenever any of those tribunals might deem it for the best. They invented the action of review as a matter of right, and the action of book debt, aided by the suppletory oath.

But besides all this and much more, they introduced a system of espionage almost as searching as that of the Inquisition. Every man became a spy upon his neighbor, and the magistrate became omnipresent. People were sometimes arrested for criminal offences and acquitted, and yet convicted of some

"indiscretion" in connection with the offence. They were often arrested on "suspicion" of committing some offence. It is but just, however, to say, that unless they were charged with being Quakers, witches, or with preaching or teaching something on doctrinal points which was supposed to be contrary to something that was usually taught, or of being in a minority, as Governor Vane and Wheelwright were, they were generally acquitted. But for this, while there could be no justification, there were circumstances in extenuation. Some seem to think that if we go back a short distance, and fail to strike the Garden of Eden in its primitive innocence, we shall at least find the appropriate home of the perfectionists, verging on a period when human nature, freed from its grossness, was arrayed in spotless robes. Whoever will study attentively the pages of Bradford, Hubbard, Winthrop, Hutchinson, and the twenty volumes of colonial records, will at least find that Plymouth and the Bay Colony were not that ideal home.

The people were the most litigious on the earth. More or less of the higher magistrates had been educated as lawyers, but for a long period, with a single brief exception in each colony, no lawyers educated as such were engaged in the practice of the law. As a consequence, whoever could read and write, and some who could not, became a sort of mermaid lawyers, and these, as was to be expected, mistook tricks, quirks, and quibbles for law, and shystering for jurisprudence. So far had this gone, that as early as 1656 the general court of Massachusetts had to apply the gag, and prohibit the parties, by themselves or their attorney, pleading "for a longer time than one hour."

The records are tettered with charges of theft, drunkenness, and other disorders against the peace and good order of society, and fairly blotched with charges of social sins and indiscretions.

The year 1635 was one of the halcyon years in the colony. Bostonians never fail to point to it with pride, as the year of light. At that time prosecutions were barred which had been committed more than two years prior to the session of the grand jury; and yet one of your members, in a public address before this body, has called your attention to the fact that in that very year, when there were less than 6,000 people in that colony, the

grand jury found one hundred indictments at a single term Concord has in round numbers 15,000, and Merrimack county less than 50,000 people. What would you think, what would the people of Concord think, if, after throwing out what are known as liquor cases, 250 indictments should be found at a single term, or 500 a year against the people of Concord alone, or 770 a term, or 1,550 a year against the people of Merrimack county?

With the exception named, taking ten years together, the indictments in this county will not exceed fifty on an average, and the offences of which justices of the peace, police courts, and the grand jury actually take cognizance, all told, will not average 300 a year for the central county of the state. The stanza,—

“ The good old ways our fathers trod  
Shall grace their children never,”

would seem singularly inappropriate at the present time.

The apology in extenuation for this state of things, as respects Plymouth, has been given by Governor Bradford in his history. Any abridgement would impair its force, and I therefore give it entire :

“ But it may be demanded how it came to pass that so many wicked persons and profane people should so quickly come over into this land, & mixe them selves amongst them? seeing it was religious men yt begane ye work, and they came for religions sake. I confess this may be marvelled at, at least in time to come, when the reasons thereof should not be knowne; and ye more because here was so many hardships and wants mett withall. I shall therefore indeavor to give some answer hereunto. And first, according to yt in ye gospell, it is ever to be remembered that wher ye Lord begins to sow good seed, ther ye envious man will endeavore to sow tares. 2. Men being to come over into a wildernes, in which much labour & servise was to be done aboute building & planting, &c., such as wanted help in yt respecte, when they could not have such as yey would, were glad to take such as they could; and so, many untoward servants, sundry of them proved, that were thus brought over, both men & women kind; who, when



their times were expired, became families of them selves, which gave increase hereunto. 3. An other and a maine reason heard of was, that men, finding so many godly disposed persons willing to come into these parts, some begane to make a trade of it, to transeport passengers & thier goods, and hired ships for that end; and then, to make up their freight and advance their profite, cared not who ye persons were, so they had money to pay them. And by this means the cuntrie became pestered with many unworthy persons, who, being come over, crept into one place or other 4. Againe, the Lords blessing usually following his people, as well in outward as spirituall things, (though afflictions be mixed withall,) doe make many to adhear to ye people of God, as many followed Christ, for ye loaves sake, John 6, 26. and a mixed multitud came into ye willdernes with ye people of God out of Eagipte of old, Exod. 12. 38; so allso ther were sente by their freinds some under hope yt they would be made better; others that they might be eased of such burthens, and they kept from shame at home yt would necessarily follow their dissolute courses. And thus, by one means or other, in 20. years time, it is a question whether ye greater part be not growne ye worsen." Bradford's History 398-399.

A great man, equally great as an observer and thinker,—De Tocqueville,—says,—

"In this part of the Union [New England], the impulsion of political activity was given in the townships; and it may almost be said that each of them originally formed an independent nation. When the kings of England asserted their supremacy, they were contented to assume the central power of the state. The townships of New England remained as they were before; and although they are now subject to the state, they were at first scarcely dependent upon it. It is important to remember that they have not been invested with privileges, but that they seem on the contrary to have surrendered a portion of their independence to the state." Democracy in America 67.

This distinguished foreigner was probably right in treating our township system and its training as the foundation on which our free institutions rest. The old world had towns, cities, and municipalities, but our township system was a New England institution. Nobody created it. Neither the Plymouth col-



onists nor those of the Bay contemplated anything of the kind. Necessity sowed the seed, and the rest, like poor Topsy, "grewed." Neither Plymouth nor the Bay colony has any patent on this township system, or any right to one. The necessity for it was far stronger in New Hampshire than in either. Plymouth set up, and the Bay colony imported, a central authority. But in New Hampshire there was not only no such authority at the outset, either in fact or in name, but no bond of a common interest or association. Each New Hampshire settlement, like the tub of Diogenes, stood on its own bottom. Each was in fact an independent republic. In the just sense of the term, the genuine township system originated and was developed in New Hampshire. Prior to the written articles of association there is but little evidence as to the forms of government and procedure in Dover and Portsmouth, but that little tends strongly to show that they did what on the whole was deemed best for the common welfare, without regard to the laws of England or any other law. In a word, they governed themselves. After the association, each town except Hampton was a pattern republic. Its laws were enacted by major vote in town-meeting, that being the supreme legislature, and its officers were the supreme executive authority. Each town chose a ruler or judge, with assistants or associates. These in general were the court of first instance and of last resort. These tribunals ordered what, on the whole, they thought was most fitting for honest men to do. This town legislation, in the main, as shown by Judge Smith in relation to Exeter, was not only sensible and wise, but far in advance of what we should expect. And from the little we know, we have no reason for thinking that the action of these courts was not equally sensible and just.

There was that in the settlement, babyhood, and growth of these four towns, which left a powerful impress on the future state. We have had bigotry, harshness, and intolerance enough, but as a whole New Hampshire from the outset has been preëminently the home of toleration. Georgia, for thirteen years, Maryland, with an exception which it is unnecessary to recite, and New Hampshire from the beginning, have been tolerant in matters of faith. The founders of Plymouth and the

Bay colony made the church the state. No man outside the church could vote, be elected to office, or in general exercise any of the functions of a freeman. In a word, he was a political and religious outcast. For this the founders established themselves in the New World; but New Hampshire was settled for entirely different reasons. Fishmongers, salt- and potash-makers, lumbermen, mine hunters, land speculators, and their employes, settled Dover and Portsmouth. They came here to do business and make money. It was no purpose of theirs to found a commonwealth of saints, build up a religious aristocracy, or to banish from their borders any one for a difference in matters of faith.

The Bay colony had always treated Hampton as its outpost, and as a sort of penal settlement, a species of moral Botany Bay, to which its over-religious and uncomfortable spirits might be banished.

A politico-religious or religio-political controversy had arisen in Massachusetts. Harry Vane was governor, and he and his friends, Wheelwright and Mrs. Hutchinson and others, desired that he should remain so. The contest waxed warm. If a small portion of what was said by each party of the other was true, they had little claim to be teachers of either religion, morality, or honesty. At last Vane was beaten, and the majority disfranchised the leaders of the minority, and banished Wheelwright and his gifted sister, and afterwards hunted him from Exeter to Hampton and Wells, and then gave him his certificate of good character, while they drove her among the Indians, who welcomed all her children but one "with bloody hands to hospitable graves."

The natural result was, that these towns were always tolerant so far as they dared to be, while menaced by the overgrown bully of the Bay colony, threatening to take away Dover in 1638, afterwards claiming Exeter, and in 1639 sending an expedition to what is now Franklin, for the purpose of taking the preliminary steps for committing grand larceny of a whole province.

It is worthy of note, that on September 18, 1679, this claim that the colony of Massachusetts Bay had any jurisdiction over New Hampshire, was declared by royal authority to have been

without foundation from the beginning, and this decision was deliberately reaffirmed on May 9, 1682, by Cranfield's commission.

The second period embraced the time between the union and the time when the governmental machinery of New Hampshire as a royal province was put in operation, in January, 1680.

The first period comprised about twenty, and the second less than forty, years.

Considering that what was done by Massachusetts was in a sense sheer usurpation, the so-called union was a very peculiar and mixed affair. Hampton, as we have seen, had always been treated by it as part of the Bay colony. No change was made, and none was needed. Exeter, up to the presentation of her petition of May 12, 1643, had always asserted her political autonomy and had maintained it, but the "politic head" and "long arm" of the Bay colony, to use the words of Judge Smith, had left Exeter alone, and then refused to treat with her except as another Hampton.

"Exetter petition was answered, being it fell within our patent, the Court took it ill they should Capitulate with them." 1 Prov. Pap. 168.

Having Hobson's choice, Exeter submitted on or before September 7, 1643. But the same politic head treated with Dover and Portsmouth upon a different basis. On April 14, 1641, a species of tripartite treaty was entered into between them, as independent nations might, by which Massachusetts was to have "jurisdiction of government of the said people, dwelling or abiding within the limits of both the said patents, to be ruled and ordered in all causes, criminal and civil, as inhabitants, dwelling within the limits of Massachusetts government," &c., &c.

The contrast between the position of Hampton and Exeter on the one hand, and Dover and Portsmouth on the other, is very marked. As to the first, the Bay colony was lord of the fief, and, as to the latter, only had government over the people in certain matters and with certain limitations.

In this way the statutory and customary law of the Bay colony became the law of New Hampshire, but in strictness this applied only to the territory occupied by the four towns. What-

ever the rest took, they took as it were by absorption and usage. For this reason the law of New Hampshire in some respects remains to this day a Chinese puzzle, both to courts and antiquarians. There is still another difficulty. The law as written and the law as administered may differ widely. The long heads of the Bay colony were looking much more to the future of New Hampshire than to the present. Nobody knows how many people were in the four towns at the time of the union, but one of our greatest men, in his address before this society on June 8, 1831, said, "No reasonable calculation can assign to our territory at that period a population exceeding one thousand souls." The evidence upon this point is meagre, fragmentary, and imperfect. The most useful is that which throws back its reflected light from later years. The chances are very strong that Mr. Atherton over-estimated rather than under-estimated the number, and that the people at that time within the four towns numbered less than one thousand, and at the time the government was put in operation, less than three thousand. For obvious reasons there was a party in all these towns opposed to the domination of the Bay colony. Therefore as a matter of policy, except in taxation and a few other matters, the New Hampshire towns were treated with liberality, and practically allowed to govern themselves by their own officers.

In 1631, as a matter of religious principle and duty to God, the Bay colony enacted that church members only should be freemen, which deprived all others of the right to vote and hold office. On September 8, 1642, this law was dispensed with as respects the New Hampshire towns. This put the New Hampshire blackleg on the same legal level as the Massachusetts Puritan. Twice at least the Bay colony restored, but once with some qualification, the test of 1631 (3 Mass. Records 357; 4 Mass. Records (Part I) 420); but they probably did not intend to break faith, for it was undoubtedly done with the understanding that while, like "Ensign Stebbins," they were in favor of the law, they were opposed to its enforcement in New Hampshire. The result of this policy was, that local customs and usages grew up which overshadowed those originating in the Bay colony, to which I have referred.



In 1643 Norfolk county was created. Salisbury was made the shire town. Salisbury, Hampton, Haverhill, Exeter, Dover, and Portsmouth constituted the county. Hampton and Exeter had to get justice at Salisbury, but Portsmouth and Dover, favored here as in the treaty, were constituted a separate jurisdiction, and a local court with associates was created for their special benefit. And here commences, or rather recommences, the era of New Hampshire local law.

But very little of this has been preserved, either in the records or otherwise. Reference has already been made in general terms to the revolutionary ordinances, statutory and customary law of the Bay colony, which by the union became the law of the New Hampshire towns. It may be useful to note others. Every sheriff in New Hampshire, from the earliest period to the present day, has made his return on the "back side" of his writ. Why?

On May 12, 1675, the Bay colony provided as follows:

"Whereas the marshalls oath requires them to make retorne of such attachments as they serve to the Courts to wch they are retournable, which in many cases are very chargeable & troublesome, it is therefore ordered, that henceforth marshalls & constables shall be obleidged only to make theire retorne vpon the backside of the attachmt, and the same deliuer to the plaintiffe or his orders, sealled vp, when demanded, giving first a copy thereof to the defendant, if he desires it; and that no marshall or constable shall be bound to serve any attachmts till they haue theire ffees payd them which the law allowes, any law, vsage, or custome to the contrary notwithstanding; and the aforesajd clause in the marshalls oath relating to the retorne of attachmts to the Court is hereby repealed and declared disobleiging." 5 Records of Mass. 29.

The provision that the same should be delivered to the plaintiff, etc., was construed in practice to mean to the plaintiff's attorney. This had been done in the Bay colony to some extent, at least as early as 1657. By custom this became the law of New Hampshire, and has so continued to the present day.

From the passage of this ordinance to the present time, it has been the law here that no marshal, constable, sheriff, under-sheriff, deputy-sheriff, or special deputy-sheriff was obliged to



serve any kind of process, unless his fees were first paid or tendered to him.

Sheriffs were entirely unknown in New Hampshire until after the advent of Cranfield in 1682. Here, as in the Bay colony, marshals, deputy-marshals, and constables took their places. In Massachusetts a practice had grown up for the marshals and constables to appoint deputies to make service who naturally served their own and their masters' interests, rather than the law.

On May 12, 1675, the Bay colony ordered,—

“That it shall not henceforth be in the power of any marshall to make, constitute, or appoint any deputy in his place or stead to serve attachments or levy executions where the said deputy is personally related or concerned, nor shall it be lawful for any constable to make a deputy to serve attachments or levy executions in any case, any law, custome, or vsage to the contrary notwithstanding.” 5 Records of Mass. 28.

It has long been the law of New Hampshire, that where the sheriff was a party, or related to either party, or interested in the suit, the process must be directed to and served by a coroner. I am, however, unable to find any evidence that any constable here, from the early settlement to the present time, ever attempted to appoint a deputy, or that such an office was recognized by the law.

An attachment of goods and lands was a traction or seizure of the same. If A gave a deed to B, they both went upon the premises, and A gave seizin to B by pulling up a “twige and turfe,” and delivering the same to B, or by taking up a porringer or vessel of water, and delivering the same to B. Then B recited at the end of the deed, that on a day stated he had received the seizin in this way. In a suit between A and B, the marshal, sheriff, or constable went upon the land, took possession of it in the same way, and returned that he had attached the house or the land, describing the latter by metes and bounds. When he made the levy, he went upon the land and delivered seizin by twig and turf, or by water, to the plaintiff, and the plaintiff acknowledged seizin and possession in the same way. And this was the rule in New Hampshire for nearly two hundred years.

On May 12, 1675, the Bay colony provided,—

“For the better direction & regulating of all clarkes, secretaries, marshalls, & constables, in refference to the granting & serving of executions, it is hereby ordered and enacted by this Court, that all executions shall be made according to the words of the judgement, wthout addition or substraction, and that the officer that grants the same keepe vpon reccord the day, moneth, & yeare when it was granted, and that all marshalls & constables take care to see them recorded; and in case of houses & lands taken vpon execution, it concernes the person or persons to whom thay are deliuered to see it duely recorded, which being don, shall be a legall assurance of such houses & lands to him & his heires foreuer” 5 Records of Mass. 28, 29.

Here the clerk extends the record, as it is termed, but otherwise this is still the law of New Hampshire.

In October, 1644, it was provided that a plaintiff might take out a summons or attachment at his option, but that if he took out an attachment he could not proceed with his action unless he gave the defendant a notice thereof in writing, or left one at his usual place of abode; and this has substantially been the law here ever since.

Until October 15, 1650, if the defendant appeared, or remained till after judgment, as the case might be, such appearance or remaining discharged the attachment. At that time it was provided that such appearance or judgment should have no such effect, but that “all goods attached” should “stand jn-gaged untill the judgement, or the execution graunted vpon sajd judgment be discharged.” 4 Mass. Records (Part I) 27. But to obviate so palpable an inconvenience, in 1659 it was provided that unless the execution was taken out within one month after judgment, the attachment should “be released and void in law.” 4 Mass. Records (Part I) 365, 366. This has been the law here ever since, and this is the basis of the masterly judgments in *Kittredge v. Warren*, 14 N. H. 509, *Kittredge v. Emerson*, 1 N. H. 227, and *Peck v. Jenness*, 16 N. H. 516.

At an early day in the Bay colony parties to suits neglected to appear seasonably in court unless they were sent for.

To remedy the inconvenience and expense occasioned thereby, on May 22, 1650, the Bay colony provided,—

“Whereas, in suites and accions brought into Courts betweene party and party, sometimes the plaintiffe, and sometimes the defendant, and sometimes neither of them, doe attend to answer when they are called to prosecute or answer, which hath binn to long connived at by the magistrates, and much time lost in sending to seeke them out, or waite their coming in, whereby the countryes chardge is encreased, and the magistrates, jurors, wittnesses, and others abused, contrary to the laudable, reasonable practize and custome of all Courts in our native countrje, and other countrjes knoune vnto vs, itt is therefore hereby ordered and enacted, that if any plaintife, he or shee, have entered any action to be trjed in any Courte, or which comes orderly into any Courte by replevin, appeale, or by the disagreement betweene the magistrates and jury in an inferior Courte, and doe not by him or himself, or by their attorney, make their appearance, and prosecute their action jmediately after they have binn three times called in the Courte by name, after the first forenoone of the Courte, that then they shall be nonsuited; and if plaintife or defendant appeare vppon such call, they shall have their costs graunted by the Courte against him that doth not appeare; and if afterwards both partjes doe agree to trye their case the same Courte, they shall be allowed so to doe, the plaintiff paying halfe so much for a new entry as he did before; and if any person presented by the grandjury for any offence, or somoned by a magistrate to answer any crime, doe not, vppon somons, appeare at the time appointed vppon the third call, as aforesajd, he or shee shall be proceeded against for contempt, except he or shee be restrajned or prevented by the hand of God.” 4 Records of Mass. (Part I) 4.

This was in substance reënacted by sections 31 and 35 of the Cutt code of general laws. At any rate, from 1650 to the present hour this has been in most respects the customary law of New Hampshire. Almost every day in court the sheriff can be heard proclaiming, “John Doe, John Doe, John Doe come into court and answer to Richard Roe or your default will be recorded,” or “nonsuited,” as the case may be; and in the same way offenders who have been bound over to the higher

court, as it is termed, are called, and their recognizances declared forfeited. But there is no evidence that the provision in relation to the payment of half-entry fee was ever recognized in New Hampshire. But by the act of June 21, 1701, when the default was taken off, before the jury were dismissed, the defendant was compelled to pay "down" to the plaintiff the "cost he hath been at so far," and then the plaintiff was compelled to "pay for entring the Action anew."

The process of the courts was simple. On August 23, 1630, the general court provided as follows :

"It was ordered, that, in all ciuill accons, the first pcesse or summons by the beadle or his deputy shalbe directed by the Gouor, or Deputy Gounr, or some other of the Assistants, being a justice of the peace; the next pcesse to be a capias or distringas, att the discrecon of the Court." 1 Records of Mass. 74.

The result and the remedy for this were given on November 11, 1647, in these words :

"For ye pventing & according of long, tedious, & confused pleadings in civill actions, & ye many complaints of defendants, alleadging yt they undrstand not wt to answeare to, nor wt wittnes to sumon, till they appeare in Corte, as also for ye bettr pserving ye records of all actions tryed in all Cortes of iustice wthin ys iurisdiction; & lastly, yt all actions of review may be ye bettr discerned & iudged, this Corte doth hereby ordrr, yt all plantiffs or their atturnyes in civill actions shall hencforth draw up a declaration, in a faire & legible hand, & shall delivr it to ye recordr or clarke of ye Corte wr ye cause is to be tryed 3 dayes at least before ye same Corte, wrby ye defendt may have time also to put in his answeare in writing, as above, & to sumon his witnesses according to ye nature of ye declaration; & all actions shall be entred before ye end of ye first day of ye Corte." 2 Records of Mass. 219.

The practice in Massachusetts improved step by step until about 1721, when, as a rule, the declaration appeared in the writ; but this in general had been the practice in New Hampshire from a very early period. In Judge Smith's MSS., entitled "Old Records," he collected about sixty cases in which the declaration appears as a part of the writ prior to the estab-



lishment of the Cutt government, and quite a number were between that time and 1692. He also collected others ranging from 1649 to 1707. These show the general uniformity of the practice here, but it was not compulsory save only under the Cutt code.

Richard Waldron, by reason of his personal interests and relations, was a Massachusetts man. Under his lead Dover became famous in the olden times for the alacrity with which its people at the beck of the Bay colony pursued the witches. At some time in 1656, Robert Coutch called Goodwife Jane Walford a witch, whereby she was brought into the court of associates "upon suspicion of being a witch." As we now term it, she was allowed to go upon her own recognizance. On March 22, 1669, she brought an action for slander, laying her damages at one thousand pounds. The declaration is as follows:

"In an action of slander for saying that the said Jane was a witch & he would prove her one which is very greatly to her damage." Judge Smith's Old Records 78.

She prevailed, the jury giving her a verdict for five pounds and costs of court.

Coutch set a back fire by bringing an action for unjust molestation. The declaration was as follows:

"In an action of the case in unjust molestation in arresting him in £1000 action which he conceives not according to law but much to his prejudice & damage." Judge Smith's Old Records 78.

So far as I am able to ascertain, the Walford case, and that of Rachel Fuller in 1680, and perhaps one other, are the only ones in New Hampshire where any person has been molested on a charge of witchcraft. Yet tolerant Massachusetts commenced hanging witches in 1648, and kept on until the summer of 1692, when at a single term a man eighty years old was pressed to death for standing mute, nineteen were hung, nine were sentenced to death, and fifty more were imprisoned, and terrified into a confession of their guilt.

But New Hampshire was not stainless. The following order by Waldron, dated at Dover, December 22, 1662, needs no comment:



“To the constables of Dover, Hampton, Salisbury, Newbury, Rowley, Ipswich, Windham, Linn, Boston, Roxbury, Dedham, and until these vagabond Quakers are out of this jurisdiction.

“You and every one of you are required, in the King’s Majesty’s name, to take these vagabond Quakers Anna Colman, Mary Tompkins, and Abie Ambrose, and make them fast to the cart’s tail, and drawing the cart through your several towns, to whip them upon their naked backs not exceeding ten stripes apiece on each of them in each town; and so to convey them from constable to constable till they are out of this jurisdiction, as you will answer it at your peril; and this shall be your warrant.” 2 N. H. Hist. Col. 45.

To the shame of all New Hampshire men and women, this order was executed by the constables in Dover, but it was too infamous even for Walter Barefoote. By characteristic ingenuity he got these poor unfortunates out of the hands of the constables in Salisbury, and sent them in peace across the line. But this treatment was like the dew of heaven compared with that which the Quakers received in Massachusetts. There they were banished, their tongues bored with red-hot iron, and their dead bodies swung from the gallows. To the credit of the legal profession it must be said that no lawyer sat on the bench, nor in anywise participated at these trials. Had there been an educated bar, knowing the rights of their clients, and daring to maintain those rights and the rights of the jurors, the result might have been different.

Prior to 1649 a sort of trustee process was in use in the Dover and Portsmouth court. In 1649 we find the following process: “To the marshal of Dover or constable of Strawberry Bank

“You are required to attach the bark now in possession of Richard Cutts or John Cutts so as to bind the same to be responsal at the next court at Dover unto the complaint of Mr. Sampson Lane in an action of the case upon acct. if the said bark be John Cutts’ or in an action of the case for judgment obtained by E. Savage if the barke be Richard Cutts and so make a true return hereof under your hand dat 1 (7) 1649.

Per Curia W Aspinwall”

The return was as follows:

“Executed this attachment upon the bark according to the

tenor hereof by William Storer Marshall" Judge Smith's Old Records 82.

A process in 1657 was as follows :

"Attach the goods of Mrs. Ann Mason Exx to Capt John Mason of London, decd. to the value of £25 the said goods and debts are recovered by Mr. Joseph Mason as atty to the said Ann Mason & now in the hands of John Goddard so as the same may be responsible to answer to the complaint of Edward Colcord the assignee of John M. at the next court to be holden at Dover in an action of the case for monies detained which is due by bill from the said Capt. John Mason his agent Cap Walter Neale as appears under his hand."

The return is as follows :

"This attachment served upon the estate of Mrs Ann Mason in the hands of John Goddard according to the tenor of the warrant by me" Judge Smith's Old Records 76.

And this was more than sixty years before the double-barrelled trustee act of May 13, 1718. N. H. Laws, Russell's ed. of 1726, pp. 122-124.

Account-books, shop-books, actions of account, and book debts, as they were termed, were in use in the Bay colony and in New Hampshire at a very early day.

The common form of an action of book account here in 1688 was by adding to the common form for goods sold and delivered the words, "as by the said plaintiff's book of acct relative thereto being had more particularly appears." Judge Smith's Old Records 50.

In 1669 the defendant was required to appear at the next court of assistants to be held at Portsmouth the last Saturday of September next to answer in "an action of debt of about £16,, 3,, 8 or what shall appear justly due by book" &c. Judge Smith's Old Records 66.

In 1670 Thomas Mayne was attached to appear before the court of associates to be holden at Portsmouth or Dover "in an action of the case for a debt due by book to the value of £9,, 8,, 4" &c. Judge Smith's Old Records 66.

Jose v. Robie, in 1697, was for "goods received & money lent said Robie as will more at large appear by book in the trial of the case." Judge Smith's Old Records 65.

Partridge *v.* Allen, December term, 1700, inferior court of common pleas, was, among other things, "as by account hereunto annexed stated in the plats book reference being had," &c. Judge Smith's Old Records 67.

The form used at the March term of the inferior court of common pleas, 1707, in *W. Ardet v. B. Young*, was,—

"In a plea of the case for that the deft. is & standeth justly owing & indebted unto the plat. as it is stated & set down in the plats book ready to be produced in court in the sum of £19,, 4,, 6, as by a copy of the account taken out of the plat book & hereunto annexed will more especially appear & he the deft being so indebted promised to pay the same yet notwithstanding the plat. hath often requested the deft to pay him the said sum of £19,, 4,, 6,, he the deft hath refused & still doth refuse to pay the same which is to the plat. dam." Judge Smith's Old Records 49.

Judge Smith says that in 1717, "the declarations on acct. annexed are like those 20 years before & allege no promise to pay & those on notes, book acct. & bills usually offer a profert." Judge Smith's Old Records 118.

In 1743-'5 the great case of *Sherburne v. Thompson* ran the gamut of our courts. The papers are now in the files of the old court of appeals at the state-house. The suit was on book account. A copy of the account is on file; it occupies two columns and a half of long bill paper, written very closely. The plaintiff was a Boston merchant. He copied off his bill, took his book with him, and went before a justice of the peace in Boston, who compared the book with the account, and certified at the end of the account that he had done so; that the two tallied except in a single item, stating what that was. He administered the oath to the plaintiff, and in this way the plaintiff proved his case. Depositions as they were sometimes termed, or affidavits as we should term them, were sometimes used in the Bay colony before grand juries as early as 1629.

At an early day the adverse party was notified, so that he might be present and object to the witness's testifying if he saw fit. When the deposition came to court, if the witness was incompetent, or the testimony, the deposition was excluded. This rule has been modified as respects leading questions, where

the deposition must show that a special exception on that ground was taken at the caption, but otherwise is the foundation of the present practice. The adverse party might be present, hear, and object, but he could not cross-examine. The latter right was accorded, so far as I have been able to observe, long after the present century began. Within the memory of members of the bar still living, these depositions were taken in the narrative form. We owe the practice of taking them by interrogatories and answers to Judge Parker after he went upon the bench; but I am not aware that in the last century it was ever necessary to give notice of the administration of the suppletory oath. The paper and certificate of the justice of the peace in *Sherburne v. Thompson* was in essence the deposition.

Actions on the case for not accounting, or "suits for a settlement," as they were commonly termed both by lawyers and laymen, were brought at a very early period, and as late as the time when Mr. Smiley was in practice in Grafton in this state.

In 1665 one Lockwood was sued to answer "in an action of the case for not paying nor giving him an account of a voyage to the West Indies & back again which the sd L did take on Nov. 1663 in the vessel Walter & Deborah whereof the sd B. doth own 1-4 part the sd vessel being of burthen 53 tons or thereabout with due damages." Judge Smith's Old Records 68.

In 1665 George Walton brought suit against W. Drew, "in an action of the case upon account for not giving the sd G. W. an acct. of a fishing voyage & not delivering the sd. G. W. his share of the fish & oil the sd W. D. being the master of the sd voyage." Judge Smith's Old Records 74.

Similar suits were brought until the Revolution. The suit of Samuel Moffat *v.* Peter Livius was entered early in 1768. This also was an action for not accounting for a voyage, and was brought by one of several owners. It was brought against one of the council. From its importance it brought into the case more than half of the entire legal talent of the province. An attachment of real estate was made by the sheriff, on February 4, 1768, at 7:50 P. M., and a summons was left on that day "at the last and usual abode of" the defendant. On February 9, 1768, the plaintiff also attached a schooner, valued at four hundred pounds. John Moffat, John Parker, John Pickering,



William Parker, and Samuel Livermore, the king's attorney-general and the great man of that generation, were of counsel. A variety of questions were raised in that case, to which it is unnecessary to refer ; but one objection is important for the present purpose. It is as follows :

“ 3dly. The account is not attempted to be proved by the appellant's oath or by the oath of any clerk of his but the attorney only swears that one part of the account is fairly transcribed from the appellant's books.”

This point was overruled. Nobody knows the time when a plaintiff could not testify in support of his account in New Hampshire. But the courts have created a great amount of unnecessary confusion, both here and in Massachusetts, by neglecting the early history on the subject.

Mr. Washburn, after reciting in brief a portion of the early history in relation to books of account, says,—

“ But in 1654 the court, ‘ taking notice of the imperfect matters that are tendered many times for evidence before the judges with reference to shop books, and writings of like nature,’ passed an order requiring books to be kept in a particular form in order to be admissible as evidence. And ‘ for any wares sold,’ the judges would not be willing to take the oath of the plaintiff in his own case, unless it be ‘ to the truth of the whole book,’ except under certain limitations specified in the order.” Washburn's Judicial Hist. of Mass. 56.

On June 7, 1682, Plymouth colony established the following as the law :

“ It is therefore enacted that all and euery Marchant, shop-keeper, dealler, &c., shall keepe a booke of their dealing and trading fairely writting downe therein both debt and credit, and the said Marchants their ffactors or servants or any of them that shall deliuer any such wares or Marchandice ; makeing oath that the said book of accompts is true both for debt and credit ; such Booke of accompts shalbe held sufficient in law for the recouery of any debt within four yeers after the deliuey of any such goods. *But if the defendant will take his oathe that hee had not those goods charged in the booke or accompt ; or that hee hath payed for the same ;* then the case shalbe tryed and determined accodring to the best and strongest presump-



tions the ptyes concerned shall produce." 11 Plymouth Colony Records 255.

In Cleave's case, decided in 1782, the supreme court of Massachusetts said that "no one item or charge in cash must exceed 40s or \$6.67," and put it upon the ground of "immemorial practice." 3 Dane's Abr., ch. 81, art. 4, sec. 2, p. 319.

In Cogswell v. Dolliver, 2 Mass. 221, the court held that "in actions of *assumpsit* for goods sold and delivered, evidence by a shop book, or *other daily memoranda*, with the supplementary oath of the party himself, if living, is a mode of proof admitted with us generally, and is made necessary by the course of business in transactions of that nature."

On May 19, 1669, the general court of the Bay colony enacted as follows:

"On complaint & consideration of sundry inconueniencies, both to creditors & debtors, through want of seasonable examination & ballancing of booke accounts, it is ordered by this Court, & ennacted, that all such booke debts as are now standing out, or that hereafter shall bee made, & that shall not, within three yeares after publication hereof, or within three yeares after such debt as hereafter shall bee made, bee accounted for or ballanced with the originall debtor, or his attorney, agent, assign, or other lawfull successor or substitute; and on accompt or ballance thereof, assured by specialty giuen for it, or witnessed by subscribing the debtor, or other accomptants name, to the creditors booke, or the subscription of the wittnesses to such accompt, shall not bee pleadable in any Court, vnless such booke debt shall, within the time before limited, bee prosecuted or proued in such Court as hath proper cognizance thereof, by euidence competant & approued by the sajd Court; and the euidence there recorded, & the reccord thereof, shall secure the creditor, his executores, administrators, & assignes, vnless the debtor or his assignes shall disproue the same within one yeare after such prooffe made, or recouery of the sajd debt, if such debtor, his or her agent, attorney, assign, substitute, executor, administrator, or other lawfull successor, bee or shall bee within this jurisdiction, or else where, & haue due notice from the creditor thereof." 4 Records of Mass. (Part II) 422.

The title was, "Order to determine debt bookes, &c."

On May 28, 1679, the general court of the Bay colony enacted as follows :

“ Vpon complaint of sundry inconveniencjes & pjudice arising by the law entituled Debts by Booke, if put in execution, wch law, vpon sundry petitions, hath, from time to time, been suspended, & now againe, by longer experience, found to be very detrimentall, this Court, on consideration hereof & what else is presented, see cause to repeale the same, & by the authority thereof it is hereby repealed to all intents & purposes.”  
5 Records of Mass. 212.

It is quite apparent from what we have seen of the practice, that neither of these two became a part of our law.

It is self-evident that the rule in Massachusetts was not a disabling, but an enabling, rule of practice. It was not intended to restrict, but to enlarge, the right to testify. In the mother country, for centuries, apparently by a rule adopted among the clerks as a matter of convenience, parties, at least the defendants, were allowed to testify to any item not exceeding 40s., without reference either to books of account or memoranda. This rule of practice was afterwards imported into the high court of chancery. Parties in New England, in an action of book debt or book account, were, at a later day as to cash, held to the standard thus made.

It is quite apparent, from the earlier practice which must have been unknown to Mr. Washburn, that in actions of account or for an accounting, in neither of which the declaration made the book the test, the plaintiff might testify to his account without reference to the book, but if either party desired it, the book might be introduced to affect the weight of his testimony. The records of the early practice in this state show beyond any reasonable doubt that neither the Massachusetts ordinance of October 23, 1630, relating to the commencement of suits, nor that of November 11, 1747, providing that declarations should be filed three days before trial, nor the order of 1654, to which Mr. Washburn refers, were ever adopted as the law of New Hampshire. A careful search has been made in the Massachusetts Records by a professional brother, but he has been unable to find the order of 1654.

Eastman *v.* Moulton, 3 N. H. 156, decided in 1825, is the

foundation on which our modern law in relation to book accounts rests. Parker Noyes was for the plaintiff, and Webster for the defendant. In that case it was decided that if it appear by the party's "book, or by his examination, that the goods were delivered to a third person, who might be produced as a witness, the book is not competent evidence." This decision nullifies the New Hampshire practice on the subject from the earliest settlement. In a few lines, the court, without knowing that they did it, repealed nearly two hundred years of history. Judge RICHARDSON was the court. He made the decision. He imported so much from Massachusetts, where he had been actively engaged in politics and in practice, and made it the law here. It had never made any difference here, if the book of accounts was otherwise what it ought to have been, whether the goods, etc., were delivered by the plaintiff, his clerk, or errand-boy, nor whether they were delivered to the defendant, his wife, child, agent, or servant, or some other third person.

In one of the New Hampshire cases to which I have referred, the account was for several thousands of dollars. The goods were sold by a merchant in Boston and delivered to the teamsters, who in those days freighted the goods to the New Hampshire towns. One item was for a hogshead of rum, others were for bulky articles, others for dry goods, and still others for small articles. The New Hampshire merchant did not carry the hogshead of rum home in his hand, or with his own team. It is an old adage, that "A new broom sweeps clean." Many a judge, when he gets upon the bench, acts upon this adage, and is apt to attempt to immortalize himself by acting as a legislature instead of as a court.

This opinion of Judge Richardson's was one of the baldest pieces of legislation ever attempted. Whether this legislation was wise or unwise is an entirely different question.

Queen Anne was born February 6, 1664, and ascended the throne on February 7, 1702. In 1704 parliament provided that promissory notes should be negotiable, and that indorsees might maintain an action in their own names against the maker. This statute was intended to reverse the doctrine of the courts, with Sir JOHN HOLT at their head, and this is usually held to

be the foundation of the negotiability of notes in this country. However this may be, it certainly had no application to Massachusetts, Maine, New Hampshire, and probably Connecticut.

At the Court of Assistants, holden at Boston, August 16, 1631, it was ordered,—

“That any bill assigned to another shalbe good debt to the pty to whome it is assigned; also that such debts due vpon bill shalbe pd before any other, & that the pty that giueth such bills shall renewe them vpon demaund & deliuy in of the olde bill.”

1 Records of Mass. 90.

In 1647 the general court emphasized this by providing as follows:

“It is ordered by the authority of this court, that any debt or debts due upon bill *or other specialty* assigned to another, shall be as good a debt and estate to the assignee as it was to the assignor, at the time of its assignation; and that it shall be lawfull for the said assignee, to sue for, and recover the said debt due upon bill, and so assigned, as fully as the original creditor might have done; provided the said assignment be made upon the *back side* of the bill or specialty.” Colonial Laws of Province of Mass. 1647.

On October 18, 1654, they provided as follows;

“Whereas there is a great abuse in selling of judgments and executjons, and so altering the propriety of them before they be satisfied, or goods seized, whereby great inconveniencies may arise as experience hath prooved, this Court doth therefore order, that after the end of this session, no person shall sell, alienate, or assigne any judgement or execution whatsoever; and if any shall presume to act contrary to this order, his sale, assignment, or alienation shall be void in lawe, and in case the partje dye after the judgment, before he hath taken out an execution, or before satisfaction be received, his executor or administrator shall take out or renew the execution, as the testator himself might haue donne.” 4 Records of Mass. (Part I) 202.

By referring to 11 Plymouth Colony Records, we find the following:

“It is enacted by the Court that any debt dew by bill *or specialty* to another shalbe as good a debt to the Assignee as to the Assigner, and as recouerable by suite, provided the Assignment



be vnder the Assigners hand and witnesses therunto." 11 Plymouth Colony Records 259.

This law is brief and comprehensive. It was enacted twenty years before Queen Anne ascended the throne, and a quarter of a century before the enactment of the famous statute making promissory notes negotiable. Although of a later date than the legislation of the Bay colony, it pointedly summarizes that legislation.

It is broadly distinguished from the English legislation, and all the customs of London in relation to goldsmiths' notes, etc., by the fact that it puts all evidences of debt under seal upon precisely the same basis as notes of hand; that is, it gives the indorsee of the one and the assignee of the other the right to recover in his own name.

In 1654, Mr. Clement Campion, deceased, was required "to answer to the complaint of Mr. R. Cutt, for a debt due by bill to Mr. N. D. of Charlestown & assigned over to the said R. C." Judge Smith's Old Records 88.

In *Eliza Eborne v. Joseph Philbrick*, June term, 1702, the declaration was, "to answer to Eliza E. of &c widow, the order of assignee of Samuel Allen of N &c. in an action of the case for that whereas the said Joseph by his bill note or instrument in writing under his hand ready to be produced in Court bearing date the 9 May, 1700 did promise to pay unto the said S. A. Esq. or his order £5 on the last day of July then next as in & by said bill, note or instrument in writing reference to which being had will more plainly appear yet notwithstanding the said J. P. hath been several times requested by the said S. A. as also by the said Eliz. E. to pay the said sum of £5 hath refused & still doth refuse to do the same which is to the plats dam. the sum of £8." Judge Smith's Old Records 57.

In *March v. Coates*, at the March term of the Inferior Court of Common Pleas, in 1707, a writ was sustained on a bill of exchange, dated September 5, 1700, and under the hand *and seal* of the defendant. This bill had been indorsed and assigned to the plaintiff by the payee. Judge Smith's Old Records 43.

The statute of Anne was not in terms made applicable to the colonies, but had it been otherwise it could have had no application to any of these three cases, for that statute only applied



to notes, etc., which came into existence after May 1, 1705. At common law, "to attach a seal to a promissory note or bill of exchange destroyed it as such." The statute of Anne did not change this, but it is clear that the indorsee had the right to maintain this action under the Massachusetts act of 1647, which became a part of our customary law.

Prior to 1680, there were actions at law upon awards, trespass *quare clausum*, trespass to the person, trespass *de bonis*, trespass upon the case, trover, special case, covenant, dower, writs of entry, trespass and ejectment, debt on mortgage security, also actions of general and special assumpsit, on notes, for account stated, common counts, balance of account, etc., and, since 1700, the English action of ejectment, with its casual ejectors, etc. The declarations, as a rule, were clear, concise, and would be a model at the present day. Actions of review were known as early as 1669 and undoubtedly much earlier, were much in vogue as late as 1751, and, with occasional lapses, prevailed until August 17, 1878.

The indorsement of writs by attorneys was theoretically unknown until the statute of May 13, 1718, but this was in effect done, first, by the attorney for the plaintiff setting himself out as such in the writ, and, second, by the order of the court, upon the motion of the defendant, that the plaintiff furnish security, which was generally done by the attorney for the plaintiff indorsing his name upon the writ, or otherwise upon the record.

At the February term of the superior court, 1706, in Solomon Hues *v.* Henry Sharpe, "Mr. James Menzies being attorney for Henry Sharpe the appt. & he being no inhabitant in this province the said Menzies doth promise in court to pay the costs that shall be taxed in case he should be cast." Judge Smith's Old Records 285.

But at the February term, 1718, it was "ordered for a rule of court that henceforwards any person living out of this province taking a writ out of this court shall security to the clerk in case he be cast or drops his action to pay costs." Judge Smith's Old Records 292.

By the act of May 13, 1718, every person, principal or attorney, executor or administrator, taking out a writ of attachment against another, was required, "before he receive it out of the

clerk's office," to "endorse his surname on the back thereof towards the bottom." N. H. Laws, Russell's ed., 1726, p. 105.

This act was passed primarily to prevent the gross abuses of arrests, which were largely without cause. This act was repealed June 20, 1792.

By the act of February 9, 1791, sec. 7, it was provided "that all original writs, issuing out of the superior court of judicature, or the court of common pleas, shall, before they are served, be endorsed on the back thereof, near the bottom, by and with the name of the plaintiff, or in like manner by his agent or attorney, being an inhabitant of this state," etc.

In *Farnum v. Bell*, 3 N. H. 72, decided in 1824, the court held that the writ must not only be endorsed on the back, but "near the bottom" thereof, whereby the plaintiff in that action lost his case. In consequence of this decision, the phrase, "near the bottom" thereof was struck out by the act of January 2, 1829, and the law in other respects has remained substantially the same to this day.

By the act of June 23, 1813, it was provided that "each item of said extra expense and trouble be noted, by the officer who served said precept, on the back thereof."

These illustrations show how thoroughly ingrained the ancient practice of sheriffs making their returns, taking bonds, etc., and the endorsements of writs on the back side, had become.

The mode of taking bail since the Revised Statutes is a modern illustration of the same thing.

On October 11, 1665, the Bay colony provided as follows:

"Whereas sundry inconveniencjes doe arise by reason that plaintiffs in civil cases doe delay to enter their actions to the great expence of much pretious time, & damage to the publick, it is therefore ordered, that henceforth no action shallbe entered after the first day of the Court is ended; and in case any plaintiffe shall delay his entry longer than the first forenoone of the Courts sitting, euery such person or persons shall pay double entry money. And all persons, whither partjes or witnesses, are enjoyned to attend their respective concernes in euery Court of justice as well the first forenoone of the Court as afterwards, and shall present the whole plea and evidence before the case be comitted to the jury & no after plea or evidence shallbe ad-

mitted to any person, any lawe, vsage, or custome to the contrary notwithstanding; and for that end all marshalls & constables are enjoyned to make their returnes of attachments by them served some time the first forenoone of the Court that is to take cognisance of the case concerned therein; provided, that the double entry money be paid by him that so neglects his entry, & not put the defendant to unnecessary charge through his default." IV Records of Mass. (Part II) 280.

This provision seems never to have been reenacted or adopted here until the February term, 1719, of the superior court, when the following appears:

"Ordered a rule of court that all cases that shall be entered after the rising of the court in the forenoon shall pay double entry." Judge Smith's Old Records 294.

Rules of court were authorized by the act of June 21, 1701 (N. H. Laws, Russell's ed., 22), and the power had been exercised as early as the time of Waldron's case in 1707.

In *Allen v. Waldron* it is clear that the defendant and his father had had possession of the *locus in quo* for more than sixty years. This and various other cases make it clear that the statute of limitations adopted while New Hampshire was a part of the Bay colony was never in force here, and also that as late as April 15, 1707, to use the language of Judge SMITH, "The lawyers of that day did not conceive the British statutes of limitations as in force in this country."

The statute of frauds was reenacted here May 2, 1719, and it is very questionable whether any part of it was treated as in force here prior to that time.

Prior to 1680, a common mandate in writs was to "attach the goods or chattels" of the defendant, "and to take bond to the value of . . . . .," "for his appearance," etc. The returns, as a rule, follow the mandate; for the return of nominal attachments, as of a "hat," "chair," etc., did not become common for more than forty years after that period. These bonds were, as a rule, exceedingly brief, not longer, and generally not as long, as the ordinary engagement of a receptor in these days with the sheriff. It is questionable whether this is not the foundation of the practice of taking receptors, instead of the one assigned in *Phelps v. Gilchrist*, 28 N. H. 272.

Seals and scrolls were used almost indiscriminately prior to 1700, and often after that. The courts of associates held at Dover and Portsmouth as early as June, 1663, acted as probate courts.

Laws in relation to levies upon real estate, substantially like those now in force, prevailed in the Bay colony from a very early period, and in New Hampshire since May 13, 1718. Prior to that time, after the levy had been made, and returned to court, it seems to have been the practice of the courts to order a sale at public vendue. Thus, at the February term of the superior court in 1715, in the action *Edward Cate v. Hugh Banfill*, we find the following order of court:

"The sheriff returned an execution *Edward Cate con. Hugh Banfill* as on file that he had levied it on the dwelling house & land of the said Banfill in Portsmo. Ordered that a writ be issued out for the sayle of the said house & land according to law." Judge Smith's Old Records 291.

This seems to have been purely a New Hampshire practice. In consequence of the decision in *Barney v. Leeds* in 1874, 54 N. H. 128, the commissioners adopted this rule of practice, and the legislature made it a part of the General Laws in matters of partition when the court could see that it would be for the interest of the parties.

On September 9, 1639, the Bay colony provided as follows:

"Whereas many iudgments have bene given in or Courts, whereof no records are kept of the evidence & reasons wherevpon the verdict & iudgment did passe, the records wherof being duely entered & kept would bee of good vse for president to posterity, & a releife to such as shall have iust cause to have their causes reheard & reveiwed, it is therefore by this Court ordered & decreed that henceforward every iudgment, wth all the evidence, bee recorded in a booke, to bee kept to posterity." 1 Records of Mass. 275.

Some of the clerks of court were found incompetent, and this had its effect upon subsequent legislation.

The practice in New Hampshire, however, was very different. At first there were no lawyers, and the parties went into court with their witnesses, and gave in their testimony under oath. No record of the same was made. Afterwards each party would



take his witnesses before some person who was a ready writer, and who was supposed to have a clear head, this being oftentimes the town-clerk, or some person of prominence, who took down briefly but carefully the testimony of each witness. The witness did not sign this, or swear to it. The party, when the trial came on, took these witnesses and their written statements to court. The statement of each witness was read over to him in court. The clerk added to, or otherwise modified it, as the witness desired. The witness was then sworn, but did not sign. The testimony so taken was thus made complete for the consideration of the court or jury, as the case might be. When the trial was over the party took away this written testimony of his witnesses, precisely as he did his deeds or other papers. This practice continued for generations. Testimony so taken was called depositions, but when by the law written testimony could be taken out of court it was known in the statutes and otherwise as "affidavits taken out of court."

When the separatists and fishmongers came into New England, they rejected the form of oaths with which they were familiar in the mother country. The separatists of Plymouth established in lieu thereof swearing by the uplifted hand. This form was adopted in the New Hampshire towns, and has continued to the present day. The Puritans rejected the form of swearing by the book as idolatrous and paganistic, and from shortly after the advent of the charter it was unknown in the Bay colony until the days of Andros.

Prior to 1680, the general court of the Bay colony had several times put the press under censorship. On October 19, 1664, it provided as follows:

"For the preventing of irregularities & abuse to the authority of this country by the printing presse, it is ordered by this Court & the authority thereof, that there shall be no printing presse allowed in any towne within this jurisdiction but in Cambridge, nor shall any person or persons presume to print any copie but by the allowance first had & obteyned vnder the hands of such as this Court shall from tyme to tyme impower; the præsident of the colledge, Mr. John Shearman, Mr. Jonathan Michell, & Mr. Thomas Shepheard, or any two of them, to survey such copie or coppies, and to prohibitt or allow the same according



to this order; and in case of non observance of this order, to forfeit the presse to the country, & be disabled from vsing any such proffession wthin this jurisdiction for the tyme to come; provided, this order shall not extend to the obstruction of any coppie which this Court shall judge meete to order to be published in print." 4 Records of Mass. (Part II) 141.

This did not become a part of our law.

On October 16, 1668, the general court passed the following act, which is the foundation of the law in relation to bastardy, which has prevailed in New Hampshire to the present time:

"Whereas there is a lawe provided by this Court for punishing of fornication, but nothing as yet for the easing of tounes where bastards are borne, in regard of the poverty of the parent or parents of such children sometimes appearing, nor any rule held forth touching the reputed father of a bastard for legall conviction, it is therefore ordered, & by this Court declared, that where any man is legally convicted to be the father of a bastard child, he shall be at the care & charge to majnteyne & bring vp the same, by such assistance of the mother as nature requireth, & as the Court from tyme to tyme (according to circumstances) shall see meete to order; & in case the father of a bastard, by confession or other manifest prooffe vpon triall of the case, doe not appeare to ye Courts satisfaction, then the man charged by the woman to be the father, she continuing constant in it, (especially being put vpon the reall discovery of the trueth of it in the time of hir travajle,) shall be the reputed father, & accordingly be lable to the charge of maintenance, as aforesajd, (though not to other punishment,) notwithstanding his deniall, vnless the circumstances of the case & pleas be such, on the behalf of the man charged, as that the Court that haue the cognizance thereof shall see reason to acquitt him, & otheruise dispose of the childe & education thereof; provided always, in case there be no person accused in ye time of hir travaile, it shall not be availeable to abate the conviction of a reputed father, any law, custome, or vsage to the contrary notwithstanding." 4 Records of Mass. (Part II) 393, 394.

While New Hampshire and Massachusetts were one, the criminal code might be termed a Biblical digest as to major offences, and a police code as to minor offences, covering almost

every wrongful act of which human nature is capable, from "ante-nuptial defilement," to "taking too much tole."

By the code of 1646, fifteen offences, to wit, idolatry, witchcraft, blasphemy, murder in the first degree, murder in the second degree, poisoning, bestiality, sodomy, adultery, man-stealing, false witness for the "purpose to take away a man's life," conspiracy, rebellion, cursing or smiting of parents by children, and being a rebellious son, were punishable with death. Afterwards other offences were included in this Draconian code. Arson, blasphemy by pagans, rape of a child, and treason, were made punishable with death. In 1649, rape of a woman above ten years was made punishable with death, or some other grievous punishment. The punishments for violation of the criminal code were death, imprisonment, banishment, disfranchisement, servitude, slitting of the nostrils as far as it could be done, fine, standing in the pillory, stocks, and in the market-place, arrayed in a sheet, with the words, "Cheat," "Drunkard," and various others, written in large letters, branded on the forehead or wrought into their garments, or with the scarlet letter "A," or Roman letters "P," "R," "D," "F," "B," and many others, stitched upon or wrought into their clothing, confinement in the bilboes, fastening a cleft stick upon the tongue, sitting upon the "lather," with a rope thrown around the gallows. Riding upon the wooden horse till the blood ran, was one of the many penalties for military offences; strappado, or dislocation of the joints, was another. 5 Records of Mass. 50. The favorite punishment, however, was the "beech seal,"—whipping men and women upon the naked back from ten to forty blows, and until the blood ran. This was generally done in the market or other public place.

A coat of tar and feathers has for centuries been regarded by Englishmen and their descendants as a righteous but infamous punishment for the brutal conduct of husbands to wives, and for shameless social sins. This punishment was first imposed by an act passed in the first year of the reign of Richard the First, A. D. 1189. This act provided that any robber found voyaging with the crusaders "shall be first shaved, then boiling pitch shall be poured upon his head and a cushion of feathers shook over it." He was then to be put on shore at the very first place

the vessel came to, no matter how inhospitable it might be. There is no evidence that this penalty was ever recognized as legal by the early colonists, perhaps because it had no warrant in the Jewish law.

The third period extends from the time of the Cutt commission, which lasted about two years and nine months, and under which New Hampshire began her provincial life, and until after the adoption of the Cranfield code at the November session, 1682. Up to the latter time, with two possible exceptions, there are no traces of English law, either statutory or customary.

The Cutt commission passed the great seal September 18, 1679, and was delivered to the president and council named therein on January 1, 1680. On January 14, 1680, the commission was duly read by the president. Policy prevailed by major vote, and on January 21, 1680, after great consideration, the commissioners were duly sworn in, and the new government went into operation.

On January 22, 1680, after due notice, the people convened, and the commission was read to them at Portsmouth. Due proclamation was then made, and an order was sent to each of the towns, requiring all officers, civil and military, to attend to the duties with which they had been intrusted until further order.

On February 4, 1680, the selectmen of these four towns were required to return to the council, by February 16, 1680, "A list of the names and estates of their respective inhabitants."

On February 16, 1680, the president and council provided for the abatement of the taxes of persons "aggrieved" by the war tax, by "overrating or otherwise respecting to that concern," and made the first check-list in New Hampshire for the town-meetings to be held on March 1, 1680, at nine A. M., for the choice of deputies, or, as we should say, representatives to the general assembly to be held at Portsmouth, March 16, 1680, at nine A. M.

The royal commission gave the president and council the arbitrary power "to judge and determine what persons" should be allowed to vote, and they did so order. It is notorious that this arbitrary tendency of check-list boards in New Hampshire

has been very marked down to the present day. This checklist shows that Portsmouth had 71, Dover 61, Hampton 57, and Exeter 20, in all, 209 qualified voters, which, at the average rate at the present time, in rural towns, would make the entire population of New Hampshire, on February 16, 1680, about 700.

The legislative session began March 16, 1680, and was afterwards, on April 1, adjourned to June 7, 1680, and about June 10 was adjourned to October 12, 1680, when Richard Martin, Esq., Samuel Dudley, Seaborne Cotton, and Elias Stileman were chosen a committee "for the drawing up all the laws made by this assembly as near as may be according to the laws of England and will suit with the constitution of this province." The return of the committee was put on file, and the assembly then adjourned to Thursday, December 7, 1680.

There probably was never a greater mockery of language than this vote. It shows that the council and assembly had been passing laws from time to time; that they had disregarded the English practice in framing legislation, and had adopted that which had prevailed in Plymouth and the Bay colony. The practice in these colonies in this respect had not been entirely uniform, but in general they had passed laws and then put them into the hands of a committee to be put into form for publication. In this way it sometimes happened that the law as passed and the law as made by the committee differed materially.

When codes were adopted, a somewhat different practice prevailed. The general court gathered together a variety of propositions, and sent them out to the churches and towns for amendment. These were recast by one of its most learned magistrates, who had been trained in the inns of chancery or of court, and in this way one or more of the codes in the Bay colony were adopted. Our code of 1680, if the Jewish law was to be made the basis of our jurisprudence, was in many respects a model code. It is simply impossible that it could have emanated from the minds of the committee. It shows upon its face the handiwork of some skilled draftsman who was not only familiar with jurisprudence in general, but was a master of the law and practice in the New England colonies, and particularly that of Plymouth. The vote was that the committee



should draw up these laws "as near as may be according to the laws of England." The 14th section of the Cutt code of general laws provided that the former law and practice, both in civil and criminal proceedings, should be the "rule" "vntill such acts and ordinances as have beene or shall be made by this assembly and approved by ye hond presdt and council, may be drawne up and legally published."

The code which they adopted disregarded almost every vestige of the English law, and substituted for it the Jewish law, common and biblical, as modified by the body of liberties and the ordinances of Plymouth, with here and there an instalment or a trace from Massachusetts, and all modified by the brain of the draftsman, whoever he was.

Cutt and nearly all his officers had been for many years the "instrumentalities" by which the Bay colony had governed New Hampshire. Their honors and "the flesh pots of Egypt" had come from the masters whose servants they were; and yet this code, which assumes to be their handiwork, trampled under foot substantially all of the Massachusetts law under which they had been reared and with which they were familiar.

The code may be divided into four parts. The first, after a perfumed preamble, sets forth that "it is therefore ordered and inacted by this Generall Assembly and the authority thereof, that no Act, Imposition, Law or Ordinance be made or imposed upon us but such as shall be made by the said Assembly and approved by the Presidt and Councill from time to time. That Justice and Right be equally and impshally administered vnto all: not sold, denied or causelessly deferred unto any." 1 Prov. Papers 382, 383.

This was in substance the Plymouth declaration in the preamble of 1636 intensified. 11 Plymouth Col. Rec. 6.

For frosty audacity this has hardly a parallel in history. The king had created New Hampshire into a province, and established its form of government in pursuance of his undoubted authority.

The first code of laws starts out with the proposition that no law shall "be made or imposed upon us" except such as are enacted by the president and council from time to time.



The second part comprises sixteen capital offences. Of these, eleven,—idolatry, blasphemy, treason, wilful murder, manslaughter, murder “through guile,” witchcraft, bestiality, buggery, false witness for the “purpose to take away a man’s life,” and cursing of parents by children,—were punishable with death; while five,—public rebellion, man stealing, being a rebellious son, rape, and arson,—were punishable with death or some other “greivous” punishment, and the same punishment under the third part of the code was provided upon the third conviction for burglary and robbery, making in all seventeen offences for which the death penalty might be imposed.

The code does not define what is meant by grievous punishment. The military code of the Bay colony defined it to mean, among other things, “disgracing by casheiring,” “the strappadoe, or riding the wooden horse to fetch blood.” 5 Records of Mass. 50.

Other punishments were undoubtedly regarded as grievous, both by the courts and by the people.

The Bay colony, on May 15, 1672, passed a law primarily to punish scolding women. It was as follows:

“Whereas there is no express punishment (by any lawe hitherto established) affixed to the evill practise of sundry persons by exhorbitancy of the tongue in rayling & scolding, it is therefore ordered, that all such persons convicted, before any Court or magistrate that hath proper cognizance of the case, for rayling or scolding, shall be gagged or sett in a ducking stoole & dipt ouer head & eares three times, in some convenient place of fresh or salt water, as the Court or magistrate shall judge meete.” 4 Records of Mass. (Part II) 513, 514.

We have no evidence that this became any part of our customary law.

The New Hampshire ladies guilty of “exhorbitancy of the tongue” at the present day would undoubtedly regard this punishment as grievous, though the Massachusetts women of the olden time may not.

The Cutt code did not treat the erection or maintenance of “stews” as a crime; but on May 15, 1672, the Bay colony did, and provided among other things that the offender, upon conviction, should “be severely whipt at the carts tajle, thro the

streets where such offenc or offences hath binn comitted, wth thirty stripes, & thence to be comitted to the house of correction, by the master of the said house to be kept wth hard fare & hard labour, by dayly taske, and in defect of their duty, to be seuerely whipt eury night wth ten stripes, and once at least in euery weeke the said baud hir accomplices in such vile & sinfull courses, the baud to be their leader, & the other, two & two, in hajre frocks & blew capps, by the executioner to be fastned to a hand cart, and forct along to draw all the filth lajd vpon the cart thro the streets to the seaside, going to the gallows in Suffolke, & and in all other countjes where the Court of each shire shall appoint, & so returned to the house of correction, to be alike kept wth hard fare & labour, according to the custome of the house, during the Courts pleasure there to remajne." 4 Records of Mass. (Part II) 513.

Such punishments were certainly severe, and our ancestors may have deemed them "greivous."

The third part comprised 27 criminal laws. Several of these relate simply to procedure. As I view it, this code created and provided for the punishment of at least 25 crimes,—to wit, adultery, fornication, ante-nuptial defilement after contract and before marriage, burglary, robbery, larceny of ships, etc., attempts at such larceny, larceny of money and other chattels, petty larceny, profanity, habitual profanity, profaning the Lord's day, contempt of God's word and ministers, forcible detainer of possession, conspiracy against the province and defamation of its magistrates, forgery of deeds, defacing and embezzlement of records, attempt to corrupt officers, lying, burning fences, breaking down fences, removing or defacing land-marks, unlawful gaming in public houses, playing at cards, with dice, or any game in which there is a lottery, drunkenness, firing of woods between the first of March and the first of May.

The code did not fuse the crimes of burglary and robbery, but affixed the same penalty to both. The offender, for the first offence, was to be branded on the right hand with the capital letter B. For the second offence, to be branded on the other hand and be severely whipped. If committed on the Lord's day, the brand was to be set upon his forehead. For the third

offence, he was to be deemed incorrigible, and, as we have seen, be punished with death, or other grievous punishment. Larceny of ships, etc., was punished in the discretion of the court, but not to the extent of life or limb. Whoever committed larceny of money or chattels was compelled to restore threefold to the party wronged, and was then fined or whipped, at the discretion of the court. Petty larceny was punished by payment of the damage or fine of 40s., by being set in the stocks, or whipped not exceeding 10 stripes, or by receiving "only legall admonition," whatever that may have been, in the discretion of any member of the council. For swearing, the punishment was 10s., but upon default in payment, the offender might be committed to the stocks, not exceeding three hours nor less than one hour. Where the offender swore "more oathes than one at a time," etc., the fine was 20s. Swearing at man or beast was put on the same basis. In default of payment, the offender might be whipped, or committed to prison till payment. Profaning the Lord's day "by doeing unnecessary servell worke or travell, or by sports or recreations, or by being at ordinarys in time of publique worship," was punished by a fine of 10s., or by whipping; but if done "proudly or presumptuously, and wth a high hand," the offender was "severally punished," at the discretion of the court. Contempt of God's word was punished by fine or corporal punishment in the discretion of the court, but this did not extend to life or limb. Contempt of ministers was fined 20s. for the first transgression, or to be set in the stocks not exceeding four hours, but for subsequent offences the offenders were fined 40s., or whipped for every transgression. Forcible detainer of possession was punished by fine, or other punishment, in the discretion of the court. Conspiracy against the province was punished by fine, imprisonment, binding to the peace, or good behavior, in the discretion of the court. Whoever forged deeds was compelled to pay the party double damages and be fined a like amount. In default of payment he was publicly whipped, and branded with the Roman letter F in the forehead. If any notary or officer defrauded or embezzled public records, he was punished by loss of his office, disfranchisement, and being burned in the face. Whoever attempted to corrupt such officers was severely

punished by fine, imprisonment, or corporal punishment, in the discretion of the court.

No punishment was provided for lying, where the person was under 16 years of age, but others, if the lie tended to damage, or was told with wrongful intent, were fined 10s.; and if they were unable or refused to pay the fine, they were set in the stocks, but where the lie was "greatly prnitious to ye common weale," the offender was more "severarly" punished, in the discretion of the court.

If any person wilfully burnt another's fence, he was compelled to make good the damage, was fined 40s., and bound to good behavior.

Whoever wilfully broke down another's fence, gate, or bridge was compelled to pay the damage, and fined according to the nature of the offence.

Whoever wilfully removed or defaced any bounds set up by lawful authority was fined from 20s. to £5.

Innholders suffering unlawful games in or about their houses were fined 40s., and besides, a fine of 10s. was inflicted upon each gamester.

The head of the family who suffered card-playing or other games in his house or elsewhere was fined 20s. and each player 10s.

Whoever fired woods between the first of March and the latter end of April was compelled to make good the damage, and be fined 10s. or be set in the stocks.

Whoever was found drunk in any tavern, ordinary, ale-house, or elsewhere, was fined for the first offence 5s.; for the second offence, 10s., and be set in the stocks not exceeding two hours if he should not pay that fine; for the third offence he was to be bound to good behavior; for the fourth offence he was to be fined £5 or be publicly whipped, and "so from time to time." The authors of the *Cutt code* borrowed from *Plymouth* the following definition of drunkenness:

"By drunkenness is to be understood one yt lisps or falters in his speach by reason of over much drink, or yt staggers in his going, or yt vomits by reason of excessive drinking, or that cannot by reason thereof follow his calling."

The *Cranfield code* impaired this definition by providing that



“whosoever shall drink to excess, so as thereby to disguise himself, discovering the same by spech or behavior,” should be deemed “drunk.”

The Cutt code made that adultery in the betrothed woman which would have been so if she were married. In Massachusetts this offence was punished with death, but the Cutt code provided that the offender should be whipped “two severall times, not exceeding 40 lashes, viz<sup>t</sup>, once when ye Court is sitting at wch they were convicted of the fact, and ye 2d time as the court shall order, and likewise shall ware 2 cappitall letters A. D. cut out in cloth and sowed on their upermost garmts on their arms or back, and if at any time they shall be found without the said letters so worn whilst in this Governmt, to be forthwth taken and publiquely whiped, and so from time to time as often they are found not to weare them.”

The Cranfield code fined the offenders 10s. apiece, and made the same provision in relation to the “scarlet letter,” but provided further that if the offender “shall appear without the said letters, he or she shall be liable to pay a fine of five pounds as often as the offender shall be so found.”

The act of June 14, 1701, treated betrothed women as unmarried women. It put the man and woman offending on the same legal basis, and provided that they should be “severely whipped, not exceeding Thirty stripes; unless it appear upon Tryal, that One Party was surprised [whatever that may have been], and did not consent, which shall abate the punishment as to such party.” 3 N. H. Prov. Papers 224.

It further provided,—

“And if any Man shall commit Adultery, the Man and Woman that shall be convicted of such Crime before His Majesty’s Justices of the Superiour Court of Judicature, shall be set upon the gallows by the space of an Hour, with a Rope about their Necks, and the other end cast over the gallows; and in the way from thence to the Common Goal shall be severely whipped, not exceeding Forty stripes each; also every person and persons so offending shall forever after wear a Capital Letter A of two inches long and proportionable in bigness cut out in Cloth of a contrary colour to their cloathes, and sewed upon their upper Garments, on the outside of their Arm, or on their back in open



view. And if any person or persons having been convicted and sentenced for such offence, shall at any time be found without their Letter so worn, during their abode in this Province, they shall by Warrant from a Justice of the Peace, be forth with apprehended, and Ordered to be Publickly Whipped, not exceeding Fifteen stripes, and so from time to time, *toties quoties*."

This act remained in force, and, what is more, was enforced, until its repeal, June 20, 1792.

Many at this day believe that the scarlet letter immortalized by the genius of Hawthorne was the creature of his weird and powerful imagination. On the contrary, in New Hampshire as well as elsewhere, it was a solemn and bitter reality, as the following instances show.

At the August term of the superior court, 1719, the following sentence was passed:

"It appearing to this Court that notwithstanding the frequent inhibitions & fines that have been inflicted on John Drew & Rebecca Cook for their adulterous actions that yet in contempt thereof they still proceed in open lewdness wch. is a scandale to religion & a palpable breach of his majestys laws. It is therefore ordered that the said John Drew do forthwith pay as a fine to His Majesty the sum of £20. otherwise that 20 lashes be layd on his naked back at the Carts tayle from one end of the bank to the other & that the said Rebecca Cook at the same time set in the Cart with her face to the Criminal moreover that the said Drew *ware* the letter A during one year on the outside of his coat in open view under the penalty of ten stripes for such defect to be inflicted on him by any of his majestys Justices of this Government & so toties quoties from time to time and that the said Drew & Rebecca Cook pay all cost & charge." Judge Smith's Old Records 293, 294.

At the superior court, November 13, 1764, Margaret, the wife of Samuel Smallcorn or Smallcom was indicted for adultery with John Collier, a single man. The following is the record:

"The said Margaret appearing a prisoner at the bar pleaded not guilty to the indictment, upon which a jury being duly sworn to try the issue between our sovereign lord the king & the prisoner at the bar; and the attorney for the king & counsell for the prisoner being fully heard on the evidence the jury

withdraw for trial of the issue, & return into court and say the prisoner at the bar is GUILTY.

“It is considered that the respondent is GUILTY.

“The court having considered the offence of the respondent, do order that the said Margaret shall sit upon the gallows by the space of one hour with a rope about her neck & the other end cast over the gallows & in the way to the common gaol, shall be severely whipped ten stripes, on her naked back & shall forever after wear a capital letter, letter A. of two inches long & proportionable in bigness cut out in cloth of a contrary colour to her cloaths & sewed upon hir upper garment, on the outside of hir arm, or on hir back in open view during hir abode in this province and pay costs of prosecution taxed at the sum of thirty two pounds, fourteen shillings standing committed till sentence be performed.”

The record of this conviction gave the husband a divorce. The libel was signed “Samuel Smallcorn, by Wm Parker his attorney.”

The sentence of her paramour was as follows :

“That he be set upon the gallows by the space of 1 hour with a rope around his neck & the other end cast over the gallows ; & shall during his abode in this province wear a capital letter A of 2 inches long & proportionable in bigness cut out in cloth of a contrary colour to his cloaths, & sewed upon his upper garment on the outside of his arm or on his back in open view, & pay a fine of five pounds to His Majesty for the support of the government of this province & pay cost of prosecution, taxed at the sum of fifteen pounds nine shillings, standing committed till sentence be performed.”

The sentence of the man was much lighter than that of the woman. Whether this was because he, or the court for him, set up in mitigation the plea of the puissant Adam in the Garden of Eden, or for some other reason, the record does not disclose.

By the Cutt code simple fornication was punished by enjoining marriage, or fine, or corporal punishment, or all or any of these in the discretion of the court. But where this was after contract and before marriage, each party was fined 50 shillings, and in default thereof was whipped, and might be imprisoned at

the discretion of the court. The distinction between the two was preserved by section 3 of the Cranfield code, but was probably repealed by implication by section 4 of the act of June 14, 1701, which remained in force until June 20, 1792. But it was so thoroughly engraven in the minds of the court and people that it was recognized in fact as late as 1727 under the head of "ante-nuptial defilement." This is abundantly shown by Judge Smith's Old Records, by the fragmentary records of the court of sessions, by the papers in the files of the old court of appeals at the state-house, and by the musty volumes of church records.

The pith of the provision in the Cutt code in relation to lying was affirmed by section 8 of the Cranfield code, and, with some modification as to age, was reaffirmed by section 6 of the act of June 14, 1701, and remained in force until it was repealed by the act of June 20, 1792.

There were other radical differences between the criminal laws of New Hampshire and Massachusetts.

The Bay colony sometimes put sinners and those who professed to be saints on the same basis. In Massachusetts they hung witches whether they professed Christianity or not, but the Cutt code limited the punishment to "any Christian, soe called."

The Bay colony punished rebellion with death; the Cutt code, with death or some other grievous punishment.

The Bay colony punished blasphemers whether they professed Christianity or not, but the Cutt code only those "professing ye true God."

Although almost the entire criminal code of 1680 was taken from the laws of Plymouth, the framers of the Cutt code did not transcribe everything bodily.

Strange as it may seem, as early as 1654 the "benefit of clergy," by which whoever could write upon being burned in the hand was set free, was recognized by the authorities of the Plymouth colony. In that year Robert Latham, convicted of manslaughter, was burned in the hand. 3 Plymouth Records 73.

New Hampshire took many things from Plymouth. Whether she took that mockery of reason and relic of barbarism, the benefit of clergy, from Plymouth or from some other source, is as

yet unknown. Soon after the division into counties, a son slew his father in the town of Hollis. He was indicted, arraigned before the four judges of the highest court, pleaded his clergy, was burnt in the hand, and went out of court a free man. The burning, as a rule, was so slight, that it was, if possible, a greater farce than such a plea.

On December 25, 1775, John Patten, of Chester, struck my great grandfather, Thomas Shirley, with the heel of an old scythe, whereof he died, in charge of Dr. Wood, of Londonderry, February 1, 1776. Patten was indicted for manslaughter, tried at the September term, 1776, was convicted, and, upon claiming his clergy, was burned so slightly in the hand, that although he had a physician present for that purpose, Patten had no occasion for his services, and went out of court a free man.

The fourth part, which may be termed the civil code, comprising forty-five laws, occupies more space than all the rest. It provides for confirming grants in townships; that controversies in respect to real estate shall be determined by a jury of twelve men, chosen by the freemen of each town; that contracts shall be paid in kind, as "bargained for;" that horses going at large shall be branded, and shall be clogged or fettered at certain seasons; for the establishment of courts; that all trials shall be by jury; that jurors may be challenged for good cause; that in matters of life and death the prisoner shall have six or eight peremptory challenges; that any member of the council may join persons in marriage; that parties before marriage shall be three times published.

It further provides for the making of rates for the taking and equalization of inventories; that a list of males sixteen years of age and upwards, and valuation of their estates, shall be taken. It provides that a bounty shall be paid for killing wolves; that the former laws shall govern till new ones are passed *and published*; that if constables fail to collect the taxes, they shall pay them out of their own estates; that whosoever refuses to pay his taxes or to expose property to the constable, may, for his default, be imprisoned till he pays or furnishes good security. It fixes the marshal's fees for poundage and otherwise; provides that he shall collect the fines; may require assistance



upon demand, make levies, and take the person in default of property.

It further provides that fines shall be paid forthwith ; that neither judges nor jurors shall sit in civil causes, who are nearly related to either party ; that except for capital crimes or contempt in open court, no person before sentence shall be imprisoned who will give sufficient bail. It provides for the service of process by summons or copy, &c. ; that the freemen of each town shall choose all officers, jurors, etc., and shall regulate town affairs ; that towns may choose prudential officers ; that no person shall cast ballast into rivers or harbors ; that no person under twenty-one years of age can convey his real estate or sue in his own name, but may choose guardians at the age of fourteen ; that parents and masters may prosecute or defend the rights of children or servants, and that in all criminal proceedings any person may complain to any court, member of the council, or grand jurymen ; that attachments may be granted by any member of the council or clerk of "ye writs ;" that the summons and attachment shall be served six days before court ; that the cause of action shall be briefly described, and the capacity in which the plaintiff sueth ; that if the plaintiff or defendant fail to appear, he may be defaulted or nonsuited, as the case may be ; that the attachment shall be held good against the defendant and his surety for one month after judgment ; that no marshal or constable shall take as bail one who is not a settled inhabitant, and has a " visible Estate to be Responsible ;" that a judgment may be acknowledged by any party before two of the council, &c. ; that any person presented who fails to appear may be treated as in contempt ; that any plaintiff may withdraw his action before the verdict upon payment of the full cost ; that any person may be punished who harasses another with vexatious suits or complaints ; that all parties may review any suit as a matter of right, three times ; that innkeepers shall sell no strong drink to servants or children, without leave of the parents or masters. It further provides that any person who resides in town three months without being warned out, shall have a settlement there ; that paupers sent from one town into another shall be at the charge of the town from which they were sent ; that no person can bring in or entertain strangers from without the province



without leave; that constables shall warn all freemen's meetings to choose deputies; and that twenty shillings in money shall be paid for the entry of appeals from the quarter courts.

The Cutt commission makes the following provision in relation to religious liberty:

"We do hereby require and comand yt liberty of conscience shall be allowed unto all protestants; yt such especially as shall be conformable to ye rites of ye Church of Engd shall be particularly countenanced and encouraged." The Cranfield and Andros commissions put the word "will" before "require," but make no other change.

This royal command deprived the Catholic of religious liberty in New Hampshire. Following the mandate of the king, the Cutt code provided,—

"Yt all Englishmen, being Protestants, yt are settled Inhabitants and freeholders in any towne of this Province, of ye age of 24 years, not viceous in life but of honest and good conversation, and such as have £20. Rateable estate wthout heads of persons having also taken the oath of allegiance to his Majs, and no others shall be admitted to ye liberty of being freemen of this Province, and to give theire votes for the choice of Deputies for the Generall Assembly, Constables, Selectmen, Jurors and other officers and concernes in ye townes where they dwell."

To these mandates in the commissions and those in relation to taking the oath against Popish recusants, and for adjuration and supremacy, and the sentiment engendered thereby, we are probably much more indebted for the provision expunged from our constitution by the people in 1877, which prohibited Catholics from holding certain public offices, than from any fear of French invasion or the other reasons usually assigned for it.

The fact that this provision was from the outset treated as a dead letter, even in the most exciting partisan contests, shows how little support it had among the great mass of fair-minded and right-thinking people.

The property qualification originated in the same way, and shared the same fate, about twenty-five years earlier.

The mandate of the Cutt commission was as follows:

"And our will and pleasure is, and we do hereby declare, ordain, and grant, that all and every such Acts, Laws and ordi-

nances,, as shall from time to time be made in and by such general Assembly or Assemblies, shall be first approved and allowed by the Pres. and Councill for the time being, and, thereupon shall stand and be in force untill ye pleasure of us, our heirs and successors, shall be known, whether ye same Laws and ordinances shall receive any change or confirmation or be totally disallowed and discharged.

“ And therefore, our will and pleasure is, that ye Pres. and Councill do, and shall from time to time transmit and send over unto us, our heirs and successors, and our and their Privie Councill for the time being, all and every such Acts, Laws and Ordinances, by the *first* ship yt shall depart thence for Engd, after their making.”

That of the Cranfield commission was,—

“ That all such laws, statutes and ordinances, of what nature and kind soever, be within *three* months or sooner after the making of the same, transmitted unto us, under the public seal, for our allowance and approbation of them, as also duplicate thereof, by the next conveyance, and in case all or any of them, being not before confirmed by us, shall *at any time* be disallowed and not approved and so signified by us, our heirs and successors under our or their sign manual and signet, or by order of our or their privy council unto you, the said Edward Cranfield, or to the Commander-in-Chief of our said Province for the time being, then such or so many of them as shall be so disallowed and not approved shall from henceforth cease, determine and be utterly void and of none effect, any thing to the contrary notwithstanding.”

The question has been mooted under this and other commissions, whether the king had power to disallow after an allowance. We have Judge Smith's views upon this point, but as the evidence now stands, the point is probably immaterial.

Cutt, sick, infirm, and incompetent, was but a figure-head from the outset. He died March 27, 1682. The Bay colony, in the person of Waldron, took his place and retained his power, until Cranfield seized the reins on October 4, 1682.

The Cutt code made no special provision for the election of deputies for future assemblies, nor for convening the same. The governor and council, in their act for calling the first general

assembly, expressly disclaimed any such power as to the future, saying, "provided that we do not intend that what is now done be precedential for the future, and that it shall extend no farther than to the calling this first assembly, that they, being convened, may, as his majesty's letters patents direct, make such laws and constitutions in this and other respects as may best conduce to the weal of the whole." Records of the President and Council 2.

The assembly seems to have been in session, and to have passed an act in relation to rates, March 7, 1682. Whether this was by adjournment from the December session, 1680, or, if it was a new body, by what means it got into existence, are matters upon which we have no light; but it has never been suggested that any other laws were passed under the Cutt commission.

That copies of the Cutt code were transmitted in accordance with the royal command is not open to doubt, but the grave question of great importance, as bearing upon the subsequent history of the province, remains, whether the code was disallowed by the king, and due notice given to the authorities and the people here. This question can only be settled by an examination of the papers in the proper office in London, which should be done by and at the expense of the state.

Strange as it may seem, there is not a particle of direct evidence upon this point in the archives of the state, nor, so far as known, anywhere else in the United States.

Those who claim that the code was disallowed in a body, say that Mr. Chalmers, referring to the acts of the assembly under the Cutt commission, says,—

"They passed no laws during this first session of the assembly; they opposed all appeals from the courts of the colony to the jurisdiction of England; giving as a reason; that the shortness of the summer had prevented them from doing the one, and they were afraid that the other might obstruct justice. When, however, they did some time after essay their legislative talents, they had not the good fortune to please. The laws which they transmitted in conformity to their constitution, were disapproved by the lords of the committee of plantations in December, 1681 'both as to stile and matter,' because they were

considered 'as unequal, incongruous, and absurd.'" Political Annals of the Present United Colonies from their Settlement to the Peace of 1763, 492.

They further say, that Chalmers, though born in Scotland, was a collegiate, and bred to the law there; that he emigrated to Maryland, and practised law in the colonial courts for ten years, and therefore had special opportunity for a general familiarity with our colonial laws; that after he returned to Great Britain he had access to all the records of the lords' committee on plantations, and was therefore in a situation, possessed by no writer on this side of the water, to know the truth; that his work shows great patience and diligent research, and therefore his statement must be taken to be correct.

They further say that the statement in the first article on New Hampshire Law and its Sources, in our Historical Magazine, in the July number for 1824, p. 203, supposed to be from the pen of Governor Plumer, contains a correct statement of the traditions upon the subject. It is as follows:

"New-Hampshire was separated from Massachusetts (much against the inclination of its inhabitants) by the royal proclamation, in 1679, and had a legislature of its own in 1680. A body of laws was enacted in the course of the first year. It seems that these, when sent home for the royal approbation, were disallowed in the lump. They were probably copied from Massachusetts; and it is well known that that colony was no favorite with the court of that genteel but worthless monarch, Charles the II."

They conclude by saying that no king who possessed any spirit would be likely to consent to laws which practically made them independent of the home government; that the prime purpose of King Charles in creating the province was to enable Mason and other favorites to rob the squatters of their lands, and enrich themselves at the expense of the colonists, and that therefore he could never have been so short-sighted and unwise as to consent that these colonists, in direct contravention of the English law, should be allowed to elect in town-meeting the very jurors who necessarily must decide between his favorites and those who were in the same situation as themselves.

Those who take the contrary view, say that if the statement



of Mr. Chalmers is correct, it only showed that the lords' committee disapproved of the code, and not that the king in council disallowed it; that if he had done so, official notice thereof must have been given through the regular channels to the constituted authorities here, of which there is not the slightest evidence; that Mr. Chalmers was a high tory, a bitter partisan, and a political refugee from America at the time of the Revolution; that his words show great prejudice towards the colonists; that he never was in New England, and had no means of knowing about our colonial law; that Dr. Belknap, in the note to the second edition of his great work, showed, to the satisfaction of all fair-minded men, that Mr. Chalmers had misstated many facts, either through ignorance of the records and other evidence, or by the deliberate use of language which necessarily misled and deceived; that Dr. Belknap, who had access to all the original records, recognized these laws, so far as they were unmodified by subsequent legislation, as the law of the land, and after a careful examination of Mr. Chalmer's work, allowed his original statement to stand unchanged; that Dr. Farmer, in his edition of Belknap, did the same; and that the same view has been taken by Judges Smith, Bell, and other men eminent for their erudition.

Other considerations would seem pertinent. The Cutt code covers between twenty-six and twenty-seven pages, and that of Cranfield a little more than six pages, in the same volume, making a difference of twenty pages. A glance at the contents, as well as at the bulk, shows that the latter embraces but a small portion of the field occupied by the former.

By the Cutt code, seventeen offences might be punished with death; by the Cranfield code, none upon first conviction, and only highway robbery and burglary upon the second conviction. It is hardly credible that in less than two years such a revolution could have taken place.

The Cranfield commission treats wilful murder as a crime, but the Cranfield code does not. It recognizes as crimes, adultery, fornication, ante-nuptial defilement after contract and before marriage, burglary, robbery, larceny of ships, etc., attempts at such larceny, larceny of money and other chattels, profanity, lying, drunkenness, profaning the Lord's Day, con-



tempt of God's word and ministers, burning fences and removing landmarks, and no others;—and all of these are treated as crimes in the Cutt code. At least twenty-seven more offences are recognized by the Cutt code than by the Cranfield code.

The Cranfield code makes swearing a crime, but not treason, rape, murder, arson, perjury, forgery, idolatry, and the like. It is questionable, to say the least, whether a major vote for such a state of things could be obtained in any state prison or lunatic asylum that ever existed. The only escape, however, from this conclusion, if the Cutt code was disallowed, would seem to be to assume one of three things:—

I. That the king, in wiping out the entire criminal code, intended to reëstablish in New Hampshire the Massachusetts criminal code, and that such was the result. To this proposition are three answers,—

1. That nothing could have been farther from the king's intention, or less likely to have secured his assent. He regarded the Bay colony as a hostile province.

2. It had no such effect as a matter of law.

3. They were not revived as a matter of fact.

II. That it had the effect of reëstablishing here the entire body of the English criminal law, with its endless complexity, and thus substituted for the Cutt code another which recognized more than one hundred and sixty offences that were punishable with death. The answer to this is,—

1. That as a matter of law, it had no such effect.

2. That as a matter of fact, no such frightful and atrocious code was ever adopted or enforced here.

3. That the commission recognized the right and the duty of the colonists to frame their own laws, subject, of course, to the negative of the crown.

III. That Cranfield and the assembly had either forgotten the code passed less than two years before, or that they went to work deliberately, either by action or non-action, to recognize rape, murder, arson, and the like, as innocent pastimes.

But the absurdity does not stop here. The Cutt civil code occupied over fifteen and the Cranfield about four pages. Portions of the Cutt civil code, for instance section 23, prohibiting near "relations" from sitting as judges or jurors, were tran-

scribed from the Plymouth code ; and this was true, with slight modifications, in other instances.

The Cutt code provided that attorneys bringing writs for their clients in their own name must set out in the writ the capacity in which they sued. This provision was acted upon for years after the adoption of the Cranfield code by the very men who framed, and whose duty it was to enforce, that code.

The Cranfield civil code provided that if constables failed to collect the taxes, they should pay them out of their own estates ; that whoever refused to pay his taxes, or to expose his property to the constable, might be imprisoned till he paid or furnished good security ; for defraying the present charges for the support of ministers of the gospel, necessary expenses of assembly men, and those incurred in town affairs ; that selectmen should make the taxes, and commit them to the constable. It fixed the rate, and provided what should be taken in payment, and fixed the value of foreign coins. It provided that jurors should be selected by the sheriff. It reenacted the Cutt code in relation to bail, nonsuit and default, and summons and attachment. It defined the jurisdiction of justices of the peace in civil cases, and provided that any person might acknowledge judgment.

The Cranfield code did not provide for elections of any kind, nor by whom town or other meetings should be called, nor that any one might be a voter or be elected to office, nor attempt to provide any test or qualification for either. It did not provide for the tenure of office, nor for the authority or government of towns, nor that marriage was allowed or any authority for solemnizing the same ;—all this had been done by the Cutt code. The Cutt code had provided for the “ choice of jurors, assembly men, trustees, or overseers for the respective towns.” Section 21 of the Cranfield code recited these facts, declared “ that the manner of choice of jurors therein expressed is absolutely contrary to the known laws and statutes of the kingdom of England,” and provided that thereafter jurors should be summoned and impanelled by the Sheriff or Marshal, “ as it is customary in England, &c.” In short, the argument is, that the Cranfield legislature, after a law had been disallowed by the crown, deliberately repealed that which had no existence, and substituted another and a very different one in its place. These

men all knew that the law had been passed. If it had been disallowed, of all men they were the ones who would have known it.

The fourth period was the era of confusion. It began under Cranfield early in 1683, and the province did not emerge from it for about thirty-five years.

It is self-evident that Cranfield came here to serve his own and special interests. For a despot at times, he showed commendable tact; but the determination of the squatters, and the cunning and sullen obstinacy of Waldron and his clique, who represented Massachusetts rather than New Hampshire, enraged him. Professing to make the province one governed by English law, he resorted to high-handed and arbitrary measures, star-chamber precedents, and often acted in defiance of his commission. This welded Waldron and the squatters together, and made the province solid against him and the royal authority, and a contemner of the laws and customs of the mother country. Though he repeatedly convened and dissolved the assembly because of the firmness of the deputies in the lower house, but a single law, that against piracy, besides the code referred to, was passed during his entire administration. He made Randolph attorney-general, Mason, chancellor, Barefoote, judge, and filled the other judicial seats with his creatures.

In Gove's case, instead of causing him to be indicted under the Cutt code, or under the common law, if that had existed here, at the instigation probably of Randolph, he caused him to be indicted for high treason under an ancient British statute of questionable application. By a refinement of cruelty, under his power to create courts, he compelled Waldron, who was in the same category with Gove, except that he had a sounder intellect and far greater discretion, to try and sentence the man of whom at heart he was a confederate.

On March 3, 1683, by decree, he prohibited selectmen from calling town-meetings except by leave of the justices of the peace in the town, first appointed in New Hampshire by him under his commission.

He finally, in the name of himself and council, constituted himself a legislative body, and by decree passed the laws which are summarized on page 103 of Farmer's Belknap.

Charges were first preferred against him in 1684. Charles the Second died February 6, 1685, and his bigoted brother James ascended the throne. Hearing was had before the lords' committee, on the new charges, on March 10, 1685. The report against Cranfield, of March 27, 1685, was approved by the king in council, April 8, 1685. He left the country forever about May 15, 1685. Dr. Barefoote took his place, and held it until he was superseded by Dudley's commission, May 25, 1686.

James the Second, arbitrary and without conscience, plotting the subversion of the fundamental institutions of his country and the destruction of the rights of free-born Englishmen at home, was not likely to exhibit over-tenderness toward liberalism in the colonies. Accordingly he created the "Dominion of New England," excluded the people from any share in the government thereof, constituted a president and council, and vested in them the entire executive and legislative authority, and vested in them, or in the members of the council sitting at the county court, substantially the entire judicial power, both original and appellate. John Hincks was the only member of the council who resided in New Hampshire.

On June 10, 1686, the president and council, by a general order, provided that county courts should be held at Great Island on the first Tuesday of October, and at Portsmouth on the first Tuesday of April, in each year; that the president and council at Boston should be the superior court of general assize and the court of appeals for the whole dominion; that in general all writs should be directed to the provost marshal, county marshal, or their deputies, "shall be served 14 days before the sitting of the said court," and that the declaration of the plaintiff should be filed seven days before the session; that no deed should be recorded unless acknowledged before the president or some member of his council; that the president should appoint all judges of probate and clerks; that no man could plead before any court except in person, or by such sworn attorneys as the various tribunals might allow; that no affidavit out of court could be taken except before some member of the council; and that the marshal, with the assistance of an appointed justice, should "prick the panel or panels for the grand or petty



jurors," and provided a few regulations in relation to former judgments, births, burials, marriages, and licenses for the sale of "strong waters."

By a general order, the former bounds of townships, and all contracts between towns and their ministers, schoolmasters, and others, were confirmed. All votes for the raising of money by towns were required to be endorsed by two of the next justices of the peace or one of the members of the council. Provision was also made for the collection of taxes, "and that each town have the same liberty and power of choosing and instructing their selectmen, constables, and other officers for the management of their own affairs, as they have used and exercised; and all such elections to be made by the freeholders in every town."

Dudley failed to meet the expectations of Randolph, and his commission and government were superseded by the commission and government of Andros.

Andros arrived in Boston in December, 1686, and the first meeting of the governor and council was held on December 30, 1686. This commission, like the other, excluded the people from all share in the government. The laws or decrees enacted by the governor and council during the "usurpation" are to be found in the third volume of the Colonial Records of Connecticut. None of these had any special application, or were of exceptional importance, to New Hampshire.

What the people of New Hampshire justly complained of was, not these laws, but that they were excluded from all share in the government, and were ruled by a petty despot and a hostile cabal, without regard to any law. Dr. Belknap (*Farmer's Belknap* 119, 120) has not stated the misrule and oppression under which we suffered during the time of Andros too strongly. Their position may be summed up in a single sentence. Nobody had any rights except at the will of the Andros cabal.

The British revolution of 1688, which dethroned the fugitive James, came to their relief. On April 18, 1689, the people of Boston revolted, drove Andros and his minions from power, and imprisoned them. This left New Hampshire and Massachusetts without any lawful government. For about two thirds of a year New Hampshire had no recognized central authority,



but the towns and township system remained, and through these the people governed themselves.

Early in 1690, they crept nominally under the wing of the revolutionary government of Massachusetts, but, for all general and practical purposes, were a law unto themselves.

This state of things continued until the governmental machinery of the province was put in operation, under the commission and instructions of Allen, and the administration of his son-in-law, Lieutenant-Governor John Usher, on August 13, 1692. As might have been expected, these gave liberty of conscience to all but Papists. Aside from this they were in general fair enough to the province, for they theoretically, at least, restored the right of the freeholders through the assembly to govern the people, subject only to negative of the crown or its representative. But Allen and Usher were but another name for Mason, and, so far as was practicable under the commission, another master for the people had been substituted for Andros.

On the first Tuesday of October, 1692, the first lawful assembly in this province met since that which, under Cranfield, passed the law "punishing privateers and pirates," July 22, 1684, a period of between eight and nine years.

The province had been reduced to sore straits indeed. In less than eight years one king had died, another had been dethroned, and another installed in his place. No two of these had the same general policy, and that of James and that of William were as far apart as the poles. These changes of policy affected not only the mother country, but the Continent, and particularly France, and through the latter the Canadas, and the Indian tribes who hovered by day and by night on the frontier settlements.

The Prince of Orange came to the throne through what was practically a civil war, and the powers of that great statesman were taxed to their utmost to arrest insurrection at home and foreign complications abroad, and so for many years he was unable to give any real attention to the situation of the colonies.

For nearly ten years there had been a constant change in the political succession in this province. Governors, lieutenant-governors, deputy-governors, and other officials, came and went. From early in 1683 to the Andros revolution the peo-

ple here had neither civil nor political rights. For months after the revolution there was no government. Then the people, without the pale of law, through an irregular assembly created the form of one, and then they crept under the nominal protection of the insurrectionary umbrella of the Bay colony. The rifle, the fagot, the tomahawk, and the scalping-knife of the red man, had kept the people in constant alarm. They were at times given over to slaughter, pillage, and flames. They had been harassed and impoverished. Trade and business were practically paralyzed. Some of the former laws in which they had believed had fallen into disuse, and others had been practically suppressed, and arbitrary regulations had taken their place.

By the act of March 17, 1687, the usurpation had practically reenacted the order of Cranfield in relation to town-meetings. By a provision in the act of March 3, 1686, it had provided for the establishment of a court of chancery in this province, and had also reenacted the provision of the early ordinance of Massachusetts, before referred to, providing that declarations should be filed in courts of law seven days before the term. The people here, irritated, sullen, and obstinate, gave no sign, and these laws, as well as others, went unheeded. Usher, a tool of Andros, narrow, bigoted, and ignorant, with the mind of a peacock, but endowed with the single faculty of making money, was made governor, and occasionally strayed over the line from Massachusetts for the purpose of scolding the people and their representatives, and of impressing them with the importance of so exalted a person. But from this hour to the advent of Wentworth, in December, 1717, notwithstanding the constant changes of officials, the people were bent upon reviving their former laws and customs, and reasserting, to some extent at least, the right to govern themselves, of which they had been deprived.

From first to last the lower house invariably stood firm, and the puppets and despots who occupied the seats of the governor could not, as a rule, control, without suspension or expulsion, the strong men who represented the interests of the people in the council. One of the first steps taken by the first assembly was to restore the form of swearing by the uplifted hand (instead of the English practice by the book) which had prevailed

here without question until the arbitrary mandates of Cranfield, Barefoote, and Andros. This act or ordinance is to be found in the printed records, but not among the fifty-eight laws of the third volume of the provincial papers. Thirty-one laws are to be found which are commonly reputed to have been passed prior to 1696. These are, in general, fragmentary, but a poor substitute for a comprehensive code, and, it is apparent, were largely framed as a consequence of particular emergencies. The records of the council and assembly show that quite a number of laws were passed not included in this list, and quite as important in their character. No reason has ever been given, so far as known, why one set was published and the other not. Whether any of these were allowed or disallowed by the crown is more than debatable. Upon this point there would seem to be no evidence this side of the water.

At the November session, 1695, the lieutenant-governor proposed to the assembly,—

“‘Having at your first sitting proposed for raising of money for passing of yor laws in England, least by reason of want of due application your laws be rejected; desire your answer to the same.’

“‘The assembly answered, they had considered what proposed; but find the province was not capable to raise more money at present.’” 3 Prov. Papers (Part II) 36.

Probably owing to the expense, and because they did not want to be intermeddled with, no laws apparently were sent to the home government for the assent or disallowance of the crown until June 13, 1698, when it is apparent from the record that some laws, together with the minutes of the council, were sent to England. The proper authorities there were the law officers of the crown, whose special duty it was to pass upon the propriety or impropriety of all provincial legislation. The board comprised some of the ablest men legally and otherwise in the royal service. Yet as late as October 9, 1700, we find Pollexfen and his eminent associates advising the lords justices in respect to laws passed in New Hampshire at August session 1699, that they “‘cannot make a perfect Report (because of the confusion and uncertain state of the former Acts of that Province) until we receive a complete and authentic collection of the

whole, which has accordingly been required." 2 Prov. Papers 332.

Whether this record of preëxisting laws was furnished or not is a subject upon which we have no light. It is worthy of note that two laws passed in 1714 were disallowed, but that in neither case was the disallowance signified to the authorities here till 1769, a space of fifty-five years. N. H. Laws, ed. 1771, pp. 36, 42. How many similar cases there are we do not know.

The published laws from 1692 to 1696 were the following :

An act for the support of the government ; in relation to prudential affairs of towns ; defraying public charges ; regulating weights and measures ; allowance to representatives ; shipping horses without entry ; lawsuits above twenty pounds ; regulating cattle, corn-fields, and fences ; settling the militia ; establishing courts ; killing of wolves ; to prevent the profanation of the Lord's day ; for constables to collect rates ; for raising money to support the government in repairing fortifications, etc. ; for maintenance and supply of the ministry ; for settling a post-office ; an additional act relating to corn-fields and fences ; concerning marriages, births, and burials ; to ease people that are scrupulous in swearing ; to pay for copies of the laws ; to prevent concealing of estates from assessors ; raising money for support of government in repairing fortifications, and making provision for soldiers ; to compel constables to do their duty in collecting rates ; for settling and distributing of intestate estates and such as prove insolvent ; renewing and continuing an act for the establishment of a revenue ; for the encouragement of the post-office ; in relation to the acknowledgment of deeds ; against gaming ; altering the sessions of the supreme court ; restraining inhuman severities ; and to prevent seamen from neglecting their duty.

The act of October 21, 1693, in relation to the settling of insolvent estates, is in its essential features what the law now is. It is not, however, included in the Russell edition.

The act for establishing courts of judicature was necessarily based upon the assumption that none existed ; that those created by the usurpation and since had passed away with the state of things that gave them existence. Like that under the usurpation, it provided for a court of chancery, but apparently none



was created. Whether this act ceased to exist with the advent of Belmont, under his commission, is not clear ; but if not, the subject-matter was so fully revised by the act of August 17, 1699, that it must be deemed to have been repealed by implication. The act in relation to town officers savored of that under the usurpation. The provision against lawsuits above twenty pounds shows very distinctly the depressed condition of the province.

The year 1696 constitutes an era in our provincial legislation. It is almost self-evident, that, with a few exceptions, no human being in 1692 knew or now knows what former laws were still in force. The first laws put in print were those of 1704. On December 3, 1715, a committee was appointed "to supervise ye laws of this Province, & collect them into a body to be printed." The result of this is what is known as the Russell edition of the Province Laws of 1716, comprising about sixty pages. To this edition additions were made till 1726, when it comprised one hundred and sixty-three pages. It is impossible now to tell whether they rejected all the laws passed prior to 1696 upon the ground of economy in space and money, or because they had expired by their own limitation, or had worn out or ceased to exist, or because their commission operated as a repealing act, and swept out of existence all preëxisting statutes. There probably has never been a question on which able men, and especially jurists, have so differed as upon this, and the consequences of this darkness have been grievously felt upon the great questions which have agitated the court during the last ten years.

The edition of 1771 is based upon the Russell edition. It excluded only seven laws of that edition and its appendix.

In 1696 at least six laws were passed, to wit, an act in relation to administering the oaths to all male persons sixteen years old and upwards ; for the payment of the care of wounded soldiers ; for settling a ferry ; for the continuance of the law about post ; for reviving and continuing the impost and excise ; and for raising 600 pounds for payment and subsistence for soldiers. None of these except the first appear in Russell.

In 1697 at least nine laws were passed, to wit, an act to prevent damages by horses ; for raising 650 pounds subsistence,



and pay of soldiers ; in relation to excise ; in relation to records ; for allowing more houses of entertainment ; in relation to the prison ; for raising 300 pounds to defray the charge of the province ; for continuing the impost and excise, &c., and in relation to trespasses in cutting down trees, &c. Of these only the first is to be found in Russell. This act was really a substitute for, or a reënactment of, the substance of section 4 of the Cutt code of civil laws.

In 1698 at least six acts were passed, to wit, an act for raising 400 pounds towards the province charge ; for regulating officers' fees ; in relation to highways ; in relation to constables ; in relation to births, burials, and marriages ; and in relation to courts. None of these are to be found in Russell.

In 1699 at least five acts were passed, to wit, an act to return able and sufficient jurors to serve in the several courts of justice, and to regulate the election of representatives ; for establishing courts of justice ; for a tax or assessment of 500 pounds ; for punishing pirates and privateers ; and in relation to excise, impost, and powder money, or tonnage of shipping. Only the first two of these are to be found in Russell.

The act establishing courts of justice has already been commented upon. An earnest attempt was made to restore that part of the provision in the Cutt code providing that jurors should be chosen in town-meeting. The governor opposed it for the reasons assigned in the Cranfield code, and in consequence the new law in that respect was but a reënactment of the Cranfield code.

No one could sit as a juror unless he had an estate of freehold worth forty shillings per annum at least, or fifty pounds sterling in personal estate. Neither the Cutt nor the Cranfield code had prescribed any property qualification for jurors, but by the last section of the act of March 3, 1686, no person could be returned as juror unless "worth in real or personal estate to the value of fifty marks." The Cutt code had prescribed tests as to age and property for electors of members of the assembly. Whether these tests had been observed in all subsequent elections of assembly-men, it is impossible to determine on any evidence this side of the water. But this act of 1699 provided that no person other than freeholders of the value or income of forty

shillings per annum, or upwards, in land, or worth fifty pounds sterling, at the least, in personal estate, "should be capable of being elected to serve in the general assembly." Whether the framers intended that the Cutt code and this statute should be construed together, or that the Cutt code, or some other law or usage should govern as to age, is equally uncertain. It is hardly to be presumed that the framers of this legislation intended that a child in its mother's arms, because a freeholder, etc., might vote, or be elected to the legislature.

At least two acts were passed in 1700, to wit, an act for the better observation and keeping of the Lord's day, and an act for settling a ferry. Only the former appears in Russell. Precisely what the effect of this act may have been on the act of August 5, 1693, is not quite clear. In general, the first may be said to have answered to a declaration, and the latter to a bill of particulars. The former is a substantial transcript of section 10 of the Cranfield code.

In 1701 at least sixteen laws were passed, to wit, an act to prevent impounding of cattle wrongfully; against adultery and polygamy; against trespassing in town commons; for aiding and assisting sheriffs, constables, &c., in executing their office; for regulating tanners, curriers, etc.; for punishing criminal offenders; in relation to recording deeds and conveyances; for regulation of seamen; for taking affidavits out of court; for regulating trials in civil causes; for raising three hundred pounds; in relation to insolvent estates; for repairing of highways; confirming town grants; for raising 550 for defraying public charges; to prevent contention concerning the bounds of towns. Only the first ten of these are to be found in Russell.

Comment has heretofore been made upon the act in relation to adultery and polygamy. The act for aiding sheriffs, etc., was an amplification of the provision in the Cutt code, but with a provision that in the absence of act sheriffs, etc., a justice might command assistance for the apprehension of criminals, and for the punishment of whoever falsely personated any sheriff or constable.

The act for punishing criminal offenders provided punishment for cursing and swearing, drunkenness, theft, fornication,

bastardy, for the punishment of riots, breaches of the peace, perjury, forgery, lying, and libelling.

The act for regulating trials in civil causes was in reality a practice act. Of course it was to a considerable extent made up of portions of other acts brought together.

The act in relation to insolvent estates cannot be found. We are therefore wholly unable to state its character, or what effect it had upon the act of October 21, 1693.

No record exists, so far as known, of the act for repairing highways.

The acts for confirming town grants, and to prevent contention concerning the bounds of towns, were disallowed by the royal authority. These were but a substantial reënactment of the first section of the Cutt civil code. Other provisions of the kind were attempted or made from time to time. They all encountered the strenuous hostility of whoever stood in the stead of Mason. The disallowance of these two laws was undoubtedly due to the earnest efforts of the Masonian adherents.

Three acts, to wit, the powder act, the act in relation to assessments, etc., and the act in relation to customs, etc., were passed in 1702; and in 1703 one in relation to assessments, etc., and one in relation to customs, etc., were passed. None of these had any special signification, and none of them are included in the Russell edition.

This brings us down to the time of the printing of the laws which became the basis of the Russell edition, and this, as we have seen, was made the basis of the edition of 1771.

William Parker, Samuel Livermore, Peter Livius, and George Jaffrey, were appointed the committee to "collect and print" that edition. For those days it was an exceedingly able body, but its members were poorly selected with reference to their historical knowledge.

Mr. Jaffrey was neither a jurist, a scholar, nor a man of historical tastes. Mr. Livius was a gentleman of foreign descent, rich and well educated, but who had only been here since early in 1765. Livermore was the strong man of the committee. He was born in Massachusetts in 1732, was educated in New Jersey, and read law with Judge Trowbridge in Massachusetts. He came to New Hampshire and was admitted to the bar

about 1757, and established himself in his profession at Portsmouth, in 1758. He was a royal favorite, was made judge of the court of admiralty, and became attorney-general about 1769. His province lay in another line, and he never had any opportunity to become familiar with the early legislation and history of the province. Parker was born December 9, 1703, in Portsmouth. He received the rudiments of an education, and at fifteen was apprenticed as a tanner. For years he devoted himself to that business. It is said that in 1732 he was admitted to the bar. He was afterwards made register of probate and judge of admiralty, and in 1771 was made one of the justices of the superior court. He was a painstaking man, while he lacked the special acquaintance with the history of the early legislation in the province and the course of the courts which was necessary for the proper discharge of his duties.

This edition is generally regarded as a standard authority. It includes several acts of parliament. If this committee had known the history of the law of this province in relation to bills and notes, and the practice of the courts in relation to the statute of Anne, they would probably never have included it in this volume. Although the evidence is scanty, it is clear that this inquiry might be prosecuted further. This edition assumes to include all the laws in force, but it is at least questionable whether this is correct.

The act of April 5, 1698, for regulating fees, provided, among other things, that "no essoign, protection or wager of law, shall be allowed." This act was apparently based upon the theory that these barbarous elements of the English law should be treated as not in force here without an express prohibition. Judge Smith (Old Records 81) has preserved the declaration (Theodore Atkinson *v.* Sampson Sheafe) under this statute. The defendant was convicted at the June term of the inferior court of pleas, 1699. The declaration sets out at length the part of the statute applicable to the same. No such statute appears in the Russell edition, and Judge Smith adds the significant note, "The act recited does not appear in Law Book, edn. 1771."

The course of litigation for many years after 1696 was materially influenced by the semi-kaleidoscopic character of the political succession.



On June 6, 1696, Usher was removed by the lords' justices, and Partridge, a native, was appointed in his place. For a time the party in opposition to Usher triumphed, and, through the council and its president, practically controlled everything. On August 8, 1697, the lords of trade directed Usher to continue until Partridge should either qualify himself, or the Earl of Bellomont should arrive. On December 13, 1797, Usher published these orders in New Hampshire, and prepared to resume his authority on the next morning. December 14, 1797, Partridge took the oaths, published his commission in due form, and entered upon the administration of the government. On September 15, 1698, Governor Allen assumed the control of the government in the province of New Hampshire. On November 29, 1698, Usher, after a violent controversy in the council, again took his seat as lieutenant-governor. On July 31, 1699, the Earl of Bellomont arrived here and duly entered upon the discharge of the duties of his office. He remained here till about August 19, 1699. When he left, Partridge resumed his place as lieutenant-governor and acting governor. Governor Bellomont died March 5, 1701, and King William on March 8, 1702. On July 13, 1702, Queen Anne reappointed Joseph Dudley, the former president of the Dominion of New England, the governor of New Hampshire and Massachusetts.

On June 14, 1703, Usher obtained a second commission as lieutenant-governor of New Hampshire, and entered upon the duties of his office October 22, 1703, and retained his position until October 14, 1715, when he was succeeded by Vaughan. Allen had died May 5, 1705. Queen Anne had died August 1, 1714, and George the First was crowned October 14, 1714. On October 17, 1716, Governor Shute arrived here, and entered upon the discharge of his duties. On September 30, 1717, Shute suspended Vaughan, the lieutenant-governor. The king afterwards removed Vaughan, and appointed John Wentworth in his stead, who entered upon his duties December 7, 1717.

For many years, commencing with 1692, the records show that the practice of the assembly was frequently to pass bills, and then appoint a committee to draw them up in form for engrossment. This was probably for convenience, and was no doubt the foundation of the practice which prevailed so long in



New Hampshire, by which parties were heard before the appropriate committees, and then granted leave to bring in a bill, but afterwards, though there is no means of fixing the precise time, the English practice was adopted.

It is well known that for hundreds of years the acts of parliament were much easier to be understood than the great mass of legislation for many years in the United States. It is equally well known to all lawyers here, that in giving construction to our modern statutes, the courts resort, wherever it is practicable, to the statutes passed prior to 1830. In Great Britain the sovereign reigns, but does not govern. Politically Great Britain is governed by a committee of the house of commons. For all general purposes that committee consists of a single person known as the prime minister. Whenever the house of commons differs from its committee on a test question, the latter is dissolved. The result is, that the entire public legislation is directly or tacitly the work of the ministry. The cabinet not only have at their service the attorney-general and solicitor-general, who are selected from among the most eminent of the profession, but in addition, an officer known as parliamentary counsel, with an efficient staff of assistants. These are not only good lawyers, but skilled draftsmen. The result is an approach to perfection such as is entirely unknown in this country, even in matters of codification.

In a single state of this Union it is made the duty of the attorney-general or his staff to frame any public law upon petition therefor by any member who desires it. Beyond this solitary instance we have no provision for that end in this country. It was otherwise for many years in New Hampshire. The office of attorney-general was created in 1682, and has existed ever since. The record of the succession is so imperfect for many years, that no human being knows who held that office. We cannot, therefore, say when the practice first obtained here, but as early as 1736 the legislature was in the habit, in all matters of a public character, of requiring the attorney-general to frame the laws, and paying him specially therefor. This was done until after the Revolution.

Under the rule of the provincial congresses this task was generally assigned to special committees, one or more of whose

members had special skill in such matters. Not unfrequently Claggett, or some one else who had been attorney-general, or who had acted as his assistant, or who had had special training, was a member.

The edition of 1780 was supervised by Noah Emery, of Exeter, who had been clerk of the lower house and in some of the provincial congresses, and was withal a lawyer in active practice. Samuel Livermore, who had been attorney-general for many years and was the chief-justice, was chairman of the committee of the revision of 1784. And John Pickering, who was attorney-general in 1786, and afterwards chief-justice, was chairman of the committee for supervising and printing the edition of 1789, known in Judge Smith's papers and among old lawyers as the "Horn book." The edition of 1797 was printed under the supervision of Nathaniel Adams, long the able and experienced clerk of the highest court of the state, and the reporter of the first volume of New Hampshire reports. Judge Smith was chairman of the committee of the revision of 1792, and collated and arranged the edition of 1805, and was chairman of the committee that gave to us the excellent edition of 1815.

From the time when our legislation was carried on according to the course of regular parliamentary procedure, under regular constitutional authority, until within about half a century, the committee on the second reading of bills practically took the place of the ancient practice. For many years the members of this committee were selected for their special skill and training in such matters, and few fathers would know the paternity of their own children after they had passed the ordeal of this committee; but a new era, that of legislative hurly-burly and darkness, came upon us. As a rule, since then this committee has been a figure-head, and its members in general have possessed about the same qualifications for their task as a Piute Indian would as a translator of Sanscrit.

Would it not be well to revive our ancient and honored practice by legislative enactment or constitutional regulation?

The views and actions of the fathers in relation to marriage and divorce are not only important of themselves, but because they have been so generally misunderstood.

The founders of Plymouth, the Bay colony, and the New Hampshire towns, had no tendency to Shakerism. They were a marrying people, who believed in homes, marriage, and large families, and acted accordingly. They discarded the entire law and practice in the mother country, both in church and state, upon the subject of marriage and divorce, and substituted therefor what was more in harmony with their teachings, more congenial to their tastes, or what was bred by the wants of a novel situation.

The Catholic on the one hand, and the Separatist and Puritan upon the other, were as far apart as the poles.

The Catholic faith has its merits. Its corner-stones are few and simple, but laid deep in its foundations. It is logical, too: concede the premises, and in general the conclusions follow. The Catholic said,—The church is from God, its mission is therefore divine. Marriage is a divine, not a human institution; therefore what God has joined together, let no man put asunder. Marriage, by the divine law, is the union of two persons of opposite sexes; therefore the monogamic is the only lawful relation. Marriage is a sacrament; therefore it is indissoluble, except by the great Head of the church, or his vicerent on earth. The church is the bride of the priest; therefore he can wed no other wife.

The position of the three colonies, if New Hampshire can be termed one, was not in all respects identical, but they all agreed in certain fundamental principles. The Separatist and the Puritan said,—The Romish church is from the powers of darkness, and the church of England is its illegitimate daughter. Their mission is therefore satanic, not divine. Marriage is purely a civil, contractual relation, and therefore the parties may marry themselves as they may make other contracts; but, like all other civil institutions, this may be regulated by municipal law. It should therefore be sanctioned by the civil authority, and for that reason the parties may be fined for marrying without that authority. Divorce is a civil right—the right of redress—which an innocent party has against one who has broken his or her cove-

nant, and therefore a divorce may be decreed in such a case wherever the body-politic may deem it expedient, as towns may be divided or blotted out. The clergy are merely elective teachers, and therefore, unless invested with the civil authority, have no more power to give it sanction than other people.

For this reason, no clergyman or minister, until after Governor Dudley issued his proclamation in 1686, had any more authority to marry, than a hog-reeve, highway surveyor, or tithing-man. The Colonial Records abound with instances in which the general court appointed one or more persons in each town, for the purpose of marrying specified persons, or for marrying people in general.

We must look at their social customs for a moment. One was pre-contract, or betrothment. The betrothed woman was put, both by law and social custom, one step above the woman who was not betrothed, and one step below the woman who was married. This was so both as respects the civil and the criminal law. Probably out of this custom, which in New England took on the form of statutory law, grew the practice of "bundling."

Mrs. Lamb, in her history of the city of New York, Vol. I, p. 183, says,—“It had been an ancient custom, of much longer standing than the city, to bundle after the publication of the banns.” The practice led to abuses, and in New York, in 1658, an ordinance was passed obliging parties to marry after publication, and prohibiting them from living together until legally married. I find no evidence of any such law or ordinance in New England. The practice prevailed very largely in New England, among the rich and the poor, the educated and the uneducated, the cultivated and the uncultivated, at an early period, and to some extent as late as the present century. The betrothed woman, from the union with Massachusetts until the Cranfield code ceased to exist, was sentenced to wear the brand of the “scarlet-letter,” precisely as if she were married. Where the parties were guilty of incontinence with each other after pre-contract before marriage, their punishment was in general one half, or less than one half, what it would have been had there been no betrothment. In other words, while New York prohibited “bundling,” the New England colonies put a pre-



mium on it by mitigating the punishment of the incontinence which might result from it.

Plymouth and the Bay colony had from the outset magistrates who could join parties in marriage, and almost from the outset had their general courts, in name, to regulate such matters by appropriate legislation. Dover and Portsmouth, for nearly twenty years, had no central authority. They had no ministry in any form, nor any magistrates, except such as might be created by any mining hamlet in an unorganized territory, or afterwards as the result of forming themselves into societies. This, however, did not prevent people either from marrying or dying. The result was, that marriage in New Hampshire has borne from the outset not only the character of a civil contract, but the impress of our township system.

The question how much, or rather how little, constitutes a marriage, has been found exceedingly difficult to determine. In *Jewell v. Jewell*, at the January term, 1843, the supreme court of the United States was equally divided upon this question. In *Queen v. Millis*, in 1844, the six great law lords of the house of lords were also equally divided. And yet at this time these were the two most eminent judicial tribunals on the face of the civilized earth. Perhaps it is owing to our early history that we have had no such difficulty in New Hampshire. Here, in general, when parties think they are married, and in good faith act accordingly, they are married.

This is in general accord with the theory and practice of the Mayflower band. The first marriage was on May 12, 1621. It was the marriage of Edward Winslow to Mrs. Susannah White, the mother of Peregrine and the widow of William White, who had died less than three months before. Of this, Governor Bradford (page 101) says,—

“May 12, was ye first mariage in this place, which, according to ye laudable custome of ye Low-Cuntries, in which they had lived, was thought most requisite to be performed by the magistrate, as being a civill thing, upon which many questions aboute inheritances doe depende, with other things most proper to their cognizans, and most consonante to ye Scripturs, Ruth 4, and no wher found in ye gospell to be layed on ye ministers as a part of their office. ‘This decree or law about mariage



was publishd by ye Stats of ye Low-Cuntries Ano. 1590. That those of any religion, after lawfull and open publication, coming before ye magistrats, in ye Town or Stat-house, were to be orderly (by them) married one to another.' Petet's Hist. Fol. 1029. And this practiss hath continued amongst, not only them, but hath been followed by all ye famous churches of Christ in these parts to this time,—Ano. 1646."

Mr. Winslow occupied a very high position in the colony. When examined in 1635, before the lord commissioners for the plantations in America, by Mr. Morton, among other things, he said,—

"Then aboute mariage, the which he also confessed, that, haveing been called to place of magistracie, he had sometimes married some. And further tould their lordps. yt mariage was a civile thinge, & he found no wher in ye word of God yt it was tyed to ministrie. Again, they were necessitated so to doe, having for a long time together at first no minister; besides, it was no new-thing, for he had been so married him selfe in Holand, by ye magistrats in their Statt-house." Bradford's Hist. 330.

The Separatist—and the Puritan, with the exception more apparent than real already stated—accepted the Old Testament and the general doctrines of the Jewish law as the law of God. In consequence, in Plymouth and the Bay colony, husbands and wives, unless from the direst necessity, were not allowed to live apart.

On June 12, 1663, the general court of the Bay colony enacted as follows:

"In ansr to the petition of Christopher Blake, of Boston, taylor, it is ordered, that the prosecution of the lawe against him by order of the County Court, for living from his wife, be respitted for one whole yeare ensuing, vnlesse anything extraordinary shall present." 4 Records of Mass. (Part II) 84.

In Plymouth colony, in 1665, a man was sentenced "for entertaining the wife of one Tolman and the wife of William Tubbs." 4 Plymouth Records 104.

On May 27, 1674, the general court of the Bay colony enacted as follows:

"This Court, accounting it their duty by all due meanes to

prevent appearance of sinn & wickedness in any kind, doe order, that henceforth it shall not be lawfull for any single-woman or wife in the absence of hir husband to enterteine or lodge any inmate or sojourner with the dislike of the selectmen of the toune, or magistrate, or commissioners who may haue cognizance thereof, on pœnalty of fīue pounds p. weeke, on conviction thereof before any Court or magistrate, or be corporally punished, not exceeding ten stripes; and all constables are to take cognizance hereof for information of such cases." 5 Records of Mass. 4.

These are only a few of many illustrations.

The Jewish law punished with severity the offence of disobedience by children of their parents. The colonies did likewise. In 1665 John Porter, Jr., was brought to trial for this offence in the Bay colony. His acts and language towards his parents are set forth at length in 4 Mass. Records (Part II) 216. His neck was saved from the hangman, as the record recites, because his mother was "ouermooved by hir tender & motherly affections to forbear."

The first law passed under the province of New Hampshire, in 1680, provided that—

"If any man have a rebellious or stubborne son of sufficient years and vnderstanding, viz. 16 years of age or upwards, wch shall not obey ye voyce of his father or ye voyce of his mother, yt when they have chastened him will not hearken unto them, then shall his father and mother, being his naturall parents, bring him before the Majestrates assembled in court, and testifie vnto them that theire son is rebelleous and stubborne, and will not obey theire voyce and chastizemt but lives in sundry notorious crimes, such son shall be put to death or otherwise severely punished." 8 N. H. Hist. Collections 12.

Following the Jewish law, the eldest son (where there was no will, &c.) was given a double portion of his father's estate. The law of England was not, as most people suppose, uniform in matters of distribution and descent. Where primogeniture prevailed, the eldest son took the landed estate, and the title, if any. Where the custom of Kent was the law, the sons took the estate in equal shares to the exclusion of the daughters; but if there were no sons, then the daughters took as coparceners.

In the Channel islands all shared equally. Where the law of Borough-English prevailed, the youngest son took to the exclusion of all the other children.

There was every reason except the scriptural one why the custom of Borough-English, absolute or with modifications, should have prevailed in New England. Here, by custom, as a rule, the older children sought to better their position abroad, while the youngest son took, by lodged deeds or otherwise, the paternal acres, and cared for his parents in their declining years. And yet, despite all this, the Jewish law, to which reference has been made, prevailed in New Hampshire until February 3, 1789, its repeal, as might have been expected, preceding its repeal in Massachusetts.

The preamble to the act of May 13, 1718, was as follows:

"Whereas estates in these plantations do consist chiefly of Lands, which have been subdued and brought to improvement by the Industry and Labour of the Proprietors, with the Assistance of their Children; the Younger Children generally having been longest and most serviceable unto their Parents in that behalf, who have not Personal Estate to give out unto them in Portions, or otherwise to recompence their Labour." N. H. Laws, ed. 1726, p. 102; Province Laws of Mass. 1692-'93; Acts and Resolves of the Province of Massachusetts Bay, chap. 14, p. 43. But the act gave the eldest son a double portion, according to the Jewish law. In a word, the preamble set out that the younger children should be favored, while the body of the act provided that the eldest son be favored. This was taken bodily from the Mass. act of 1692-'93. Custom and the love of fair play on the part of the mover of the act were probably overmatched by the Jewish law coming in by way of amendment.

The law of England, in a suit for the restitution of conjugal rights by the aggrieved party, required husband and wife to live together. The courts, upon a proper case, compelled the delinquent party to return to cohabitation with the other under the penalty of imprisonment until the order was complied with. The decree in favor of the wife was that her husband should receive her back and treat her with conjugal affection. There the English courts stopped. They compelled cohabitation, but

not in the sense in which that term is used by Chief-Justice Richardson, in the famous Shaker case of *Dyer v. Dyer*, 5 N. H. 271.

But the Scotch and Jewish law were otherwise. In Marion Graham's case, where the parties lived in the same house, her complaint was that her husband would "not put hir to libertie and freedom and adheir, treit and entertein hir at bed and buird." The Scottish court ordered him "to adhier as an man aught to do to his wyff," and this doctrine was affirmed in a Scottish case by the English house of lords. By the common law of the Jews, of which the Talmud is the commentary, to use the stately language of Gibbon, "the conjugal debt" was "scrupulously exacted." One rule was applied to the vigorous lout, another to the citizen, another to the peasant, another to the camel-driver, another to the sailor; but the student and the doctor were alike free from tribute. 4 *Decline and Fall* 346.

The colonists rejected the law of the mother country. On October 11, 1665, the general court of the Bay colony made the following order :

"In ansr to the petition of Mr. Willjam Tilley, the court, hauing heard what he & his wife could say for themselues, judge meete to order & enjoyne Mr. Tilley & his wife forthwith to liue together as man & wife, that Mr. Tilly provide for hir as his wife, & that shee submitt herselfe to him as she ought, on the pœnalty of forty pounds on his part, & imprisonment on hers." 4 *Records of Mass.* (Part II) 288.

On October 7, 1678, the general court ordered as follows :

"In the case now in Court, touching Hugh March, & Dorcas, his wife, the Court, vpon what they have heard alleadged by them both in the case, and duely considered thereof, doe judge that the sajd March ought to take the sajd Dorcas, & reteyne hir as a wife, and to observe & fullfill the marriage covenant according to his engagement." 5 *Records of Mass.* 205.

The same rule prevailed in New Hampshire. Edward Colcord, although a very litigious man, was one of the most prominent in the province. On June 10, 1680, the governor and council of this province, after a full hearing, made the following order and decree :

"Edward Colcord and Ann his wife, being bound over to



appear before the council for their disorderly living, upon a full hearing of the case, the council doth order that the said Edward Colcord, and Ann his wife, shall stand bound to the treasurer of this province in the sum of 5*l.* apiece to be of good behavior each to the other during the pleasure of the council, and that the said Ann do attend her duty towards her said husband in the use of the marriage bed according to the rule of God's word, which, if she refuse so to do, upon complaint to the next court at Hampton, the council doth order that she shall be whipped to the number of ten stripes." Records of the President and Council 21.

These are only a few of many instances.

We are now prepared to grapple with the colonial law of divorce. This is a subject which, in the hands of such eminent historians and legists as Bancroft, Palfrey, Woolsey, Parker, Bishop, and half a legion more, has become involved in a confusion only rivalled by that at the Tower of Babel. Governor Hutchinson, who wrote in 1767, says,—“I never heard of a separation, under the first charter, a *mensa et thoro*. \* \* \* In general, what would have been cause for such a separation in the spiritual courts, was sufficient, with them, for a divorce *a vinculo*.” 1 Hutchinson's Hist. of Mass. 393.

Bancroft says,—“Of divorce I have found no example; yet a clause in one of the statutes recognizes the possibility of such an event. Divorce from bed and board, the separate maintenance without the dissolution of the marriage contract,—an anomaly in protestant legislation, that punishes the innocent more than the guilty,—was abhorrent from their principles.” 1 Bancroft's Hist. of the U. S., Centenary ed., 374.

Mr. Cowley, of Lowell, Mass., sent Mr. Bancroft a statement upon this historical point. Mr. Bancroft, on page 320, vol. I, of his revised edition, says,—“Marriage was a civil contract, and under the old charter of Massachusetts, all controversies respecting it were determined by the court of assistants, which decreed divorces especially for adultery or desertion. The rule in Connecticut was not different. Separation from bed and board without the dissolution of the marriage, an anomaly which may punish the innocent more than the guilty, was abhorrent to every thought of that day.”



President Woolsey said,—“*At first*, divorces were mainly, if not exclusively, granted by an act of a colonial legislature.” Essay on Divorce and Divorce Legislation 183.

Mr. Loomis said,—“The earliest legislation on the subject in the colonies, of which we have any record, is that contained in the Biblical Digest which answered the purpose of a legal code in the colony of New Haven, and was first published in 1656.” Essay in the *New-Englander* for July, 1868, 438.

Judge Parker adopted the view that the first charter of the Bay colony conferred the power to establish divorce courts.

The volume of judicial acts in Plymouth till 1636 is a sealed book. The writing is there, but no human being can decipher it. The records of the court of assistants in the Bay colony from September 7, 1640, to March 3, 1673, cannot be found. They undoubtedly went up in the flames when the town-house in Boston was burned in 1747.

The torch of history gives but a dim light in respect to divorce in the infancy of these colonies. For this there are obvious reasons. No statute conferred in terms the power to grant divorce, nor did any in the Bay colony prior to 1658. There could be but few divorces when the paramount authority, under penalty of the lash or imprisonment, compelled unwilling husbands and wives to live together, but the probabilities are very strong that the Jewish law of divorce prevailed at a very early period. There are many things about the Jewish law of marriage and divorce as to which the ablest and most learned differ,\* but all agree that a divorce was by “a writing of divorcement” given by the husband to the wife. These, as all lawyers who have had anything to do with Jewish divorces know, are very concise, being, in general, from two to four lines in length. These people had adopted the Jewish law, and emphasized it in many particulars. No reason has ever been shown why they should have rejected the part in relation to divorce any more than the rest. The written evidence of such divorces would seldom come to the surface, because they were private papers, like notes of hand, receipts, and memoranda. The colonists would not have been likely to have given public notice of the fact, so that their great enemy, Archbishop Laud,

\* *Lindo v. Belisario*, 1 Hazzard 216-261, and Appendix 7-24 *Goldsmid v. Bromer*, *ib.* 324-336.

whom they regarded as the great red dragon, would use it for their destruction. To this more than all other causes we probably owe the early silence of the two colonies upon the subject of divorce; and, of course, as a matter of policy, it was the part of wisdom, as time wore on, to add the sanction of the colony to the modified Jewish divorce.

William Tubbs and Nancy Sprague were married at Plymouth November 9, 1637. William Paybody was the son-in-law of John Alden of the Mayflower band. He was for nearly a generation one of the ablest and most godly of the prominent men of that colony.

The following order was made in 1664. It appears on page 66, vol. 4, Records of Plymouth Colony:

“William Paybody for makeing a writing for the separating of William Tubbs from Marcye his wife in reference unto theire marriage bond is fined by the courte the sume of five pounds; and leiftenant Nash and John Sprague for subscribing as witnesses to the said writing are fined three pounds.”

So in 1672, in Rhode Island, John Greene, assistant of Warwick, was censured for granting a divorce on his own authority. It is to be borne in mind that Paybody in 1664 was the representative from Duxbury, but was neither an assistant, magistrate, or held any other judicial office.

The Tubbs case came to an end in 1668. The following record tells the story:

“Whereas Marcye the wife of William Tubbs, being a woman of ill fame and light behavior apparently manifest, hath for the space of four yeares and upwards absented and withdrawn herselfe from her husband into another colonie, pretending she is at libertie and that notwithstanding all the meanes and waies her husband can use with safety, she will not be reclaimed nor persuaded to returne and abide with him as she ought to doe; and that also by letters to the govrment of Rhode Island due course hath bin taken to give her certaine intelligence that in case she would not returne unto and apply herselfe to her husband to live with him as she ought to doe betwixt the date of the said letters and this pesnt court that then hee should be diviorced from hir; and shee hath since before competent witness proposed and affirmed that shee will never returne againe

unto him while her eyes are open ; hee the said Tubbs appearing at this court, and earnestly againe sollissiteing the court for a diuorce from her,—

“This Court sees therfore cause and does herby declare that the said William Tubbs is legally cleare from his covenant of marriage formerly made with Marcye his late wife and free him from those duties relateing therto ; and that the said Marcye hath cutt of herselfe from any right henceforth to the pson or estate of the said William Tubbs hir late husband and herby allowing him libertie further to dispose of himselfe in marriage, if hee see fitt so to doe.” 4 Plymouth Records 192.

Divorces in the four colonies of Plymouth, Massachusetts, Rhode Island, and Connecticut were granted for incest, marrying an uncle's widow, bigamy, adultery, uncleanness, impotence, desertion, cruelty, abusive carriage toward the wife, defaming her and applying obscene epithets to her, irreligious conduct, and neglect to support his wife and children. Comparatively a large number of divorces for these causes were granted, prior to 1680. Others were granted before or after that time, where no cause was assigned. The probabilities are that most of the latter divorces were granted because the court or other tribunal thought on the whole that would be for the best.

In 1661, Elisabeth Burge obtained a divorce from Thomas Bruge, for uncleanness. The court gave her one third of her husband's estate, a bed, and some few articles of personal property, as alimony. 3 Plymouth Records 221.

After years of legal tribulations, Elisabeth Williams was granted a suspensive divorce from John Williams, upon the ground of her husband's “abusiue carriages towards her both in word and deed by defaming her in rendering her to bee a whore, and psisting in his refusing to perform marriage duty vnto her.” 4 Plymouth Records 93, 117, 121, 125. This case was tried by a court and jury.

In 1639 the colony of Massachusetts Bay provided for two courts of assistants “to hear and determine all and only actions of appeal from inferior courts, all capital and criminal causes extending to life, member, or banishment.” The early divorce practice in the Bay colony was founded either on custom or this statute.

When this law was reconstructed, in 1658, the words "all causes of divorce" were inserted after the word "courts" and before the word "all." The volume of "Ancient Charters," &c., assumes that these words were in the act of 1639, but Mr. Cowley, who has carefully compared all the acts, says that these words were not in that of 1639. Under the supposed authority of this act, the first divorce was granted by the court of assistants at Boston on December 3, 1639. The decree is as follows:

"James Luxford, being psented for haveing two wives, his last marriage was declared voyde, or a nullity thereof, & to bee divorced, not to come to the sight of her whom hee last tooke, & hee to bee sent away for England by the first opportunity; all that hee hath is appointed to her whom hee last married, for her & her children; hee is also fined 100£, & to bee set in the stocks an houre vpon a market day after the lecture, the next lecture day if the weather pmit, or else the next lecture day after." 1 Records of Mass. 283.

This decree was palpably a sentence of nullity. Here alimony was given to the last wife. The justice of this order is apparent, for Luxford was a black sheep.

The supreme court of New Hampshire has long been very liberal in the view the judges have taken in respect to alimony. This was due in the outset to the disgraceful blunder in the divorce suit of Sheafe *v.* Sheafe, where a decree was entered against a woman, who had not been shown to have been guilty, because the then chief-justice loved his ease too much to read the entire testimony, and granted the divorce because of the bulk of testimony rather than its weight; but it is very questionable whether the present court would go so far as to give alimony to a woman whose marriage was utterly void, and whose children in law were the children of nobody.

From this time forward the mass of divorces in the Bay colony were, apparently, generally granted by the court of assistants, or by the general court. Unfortunately, as we have seen, the record thereof, during almost the entire time that New Hampshire was a part of Massachusetts, perished in the flames. But the county court at the mandate of the general court, and the general court as an extraordinary tribunal, sometimes granted divorces during this period.



On May 22, 1656, the following decree was made :

“In answer to seuell petitions pferd by Georg Halsell & his wife respecting her diuorce, the Court, thinkes meet to referre the examination & finall determination of this case vnto the Court of Assistants, to whom properly it doth belonge ; & it is hereby ordered that the sd Joan Halsell shall haue liberty to goe to the publicke meetings, or elsewhere, without interuption from the sd George, or if the sd Georg shall any wayes molest her till the case be issued, he shallbe committed to prson till he giue bond to the Gounr, or Dept Gounr, for his good behavior ; & it shalbe lawfull for any inhabitant, on sight of any disturbance, to rescue her out of his hand, & convent him before authoritie to be comitted to prson.” 3 Records of Mass. 413.

On October 14, 1656, the following order was made :

“Mary Bachiler pfering a pet. to be divorced from her husband, now in England, the examination of the case is referd to ye next County Court at Yorke, & the sd Court to make returne of what they find in the case to the next Court of Assistants, who haue power to issue & determine the same.” 3 Records of Mass. 418.

On October 16, 1650, the general court made the following decree :

“In answer to the petition of William Palmer, desiring a bill of divorce maybe graunted him from Ellinor his wife, which, since his coming into these parts, hath wholly deserted him, and *marrjed herselfe* to one Willjam Pope, of Salisbury, in the county of Wilts, in England, and hath had children by him, the Courte judgeth it meete (on the pervsall of the evidence of Xtopher Batt and John Wheeler, of Salisbury aforesajd, now in New England, affixed to the petition) that the sajd William Palmer should be divorced, and declared heereby that he is legally divorced.” 4 Records of Mass. (Part I) 32.

On May 16, 1654, the general court made the following decree :

“In ansr to the peticon of Dorcas Hall, desiring a divorce from hir husband, Jno Hall, who is gonn from hir, &c, the Court, finding it fully proved that Jno Hall hath voluntarily wthdraune himself from Dorcas, his wife, and contjnewes in his

obstinate refusal to cohabit wth hir as his wife, and hath broken the bonds of wedlocke, as by his oune confession, attested by Mr. Wm. Coddington & Wm. Jeofferjes, wth the oath of Lawrence Turner, the Court judgeth it meete, that the sajd Dorcas shallbe, & hereby declares that shee is, legally diuorced from the sajd Jno Hall, and is at hir libertye to marry wth any other man." 4 Records of Mass. (Part I) 190.

On May 14, 1656, the general court made the following order :

"In answer to the petition of Wm. Clements, craving a divorce from his wife, who for seuerall yeares hath refused marriage fellowship wth him, the Court referrs the hearing and determining of the case vnto the County Court of Charlestowne next month." 4 Records of Mass. (Part I) 259.

The following, in the nature of an injunction, was ordered by the general court May 14, 1656 :

"In ansr to the peticon of George Halsall, together wth the ansr to the peticon of Joane Halsall, there having binn two comittees that haue had the hearing of this case, whose aphecons haue binn different therein, this Court is not willing to act heerevppon, but judge it meet to referre the examinacon & final determinacon of this case vnto the Court of Assistants, to whom it doth properly belong ; provided, and it is heereby ordered, that the sajd Joanne Halsey shall haue libertje to goe to the publicke meetings on the Lords & lecture dajes, or at other times, on hir occasions, wthout interruption or disturbance from George Halsey, or any on his behalfe ; and if the sajd Halsey shall goe about to seaze on hir, vex, molest, or any way disturbe hir in the streetes, or otherwise, till the cawse be issued, on complaint thereof to the Gouvernor or Dept. Gouvernor, he shall be comitted to prison till he give bond for his good behaviour ; and it shall be lawfull for any inhabitant, on sight of any disturbanc or vjolenc offered the sajd Joanne by the sajd George, to rescue hir out of his hands, & to convent him before authoritje." 4 Records of Mass. (Part I) 272.

On October 14, 1656, the general court passed the following order :

"In ansr. to the peticon of Mary Batchiler, desiring liberty from this Court to dispose of hir self, hir husband being gone

from hir, & as she ptends, since his going, married, &c. the Court judgeth meete to referr the examination of the case to the next County Court at Yorke, and the sajd Court to make retourne of what they finde to ye next Court of Asistants, who haue power to issue and determine the case." 4 Records of Mass. (Part I) 282.

On May 28, 1659, the general court made the following order :

"In ansr to the petition of George Halsall, the Court, on a hearing of the case betweene the sajd George Halsall & Joane, his late wife, doe order, that the determination of it be referd to the next sessions, & in the meane time forbidde either party to marry." 4 Records of Mass. (Part I) 380.

On May 9, 1678, the court made the following decree :

"In ansr to the peticon of Mary Maddox, the court, hauing read & considered the contents of this petition, doe judge & declare, that ye condition of the petitioner being indeed circumstanced as she hath therein declared, yt her husband, Henry Maddox, hauing binn absent for a thirteen yeares, & never wrote or sent to hir in ye time she is at liberty from the conju-gall bond made wth the sajd Maddox & at liberty to dispose of herselfe as she shall see meete." 5 Records of Mass. 188.

On October 15, the general court made the following decree :

"In ansr to the petition of Mary Lyndon, wife to Augustin Lyndon, humbly desiring the favour of this Court to consider her poore, desolate, and distressed condition, & to set hir free from that marrjage relation in which she now stands to hir sajd husband, since he hath in so many particulars broken couenant wth her, & that yow will be pleased to setle vpon her & her children the sajd two thirds parts of the sajd land, and that smale matter that now remajning in Deacon Allens hands; so shall she euer pray, as in duty bovnd. The Court, hauing heard hir case, doe declare the petitioner, Mary Lyndon, to be freed from hir former husband, Augustin Lyndon, and at liberty to marry another man; and doe further grant, that the land mentioned in the peticon, and *the estate in Deacon Allens hands*, be deliuered to the sayd Mary for her & hir childrens vse till the County Court shall take further order." 5 Records of Mass. 248.

On May 22, 1661, "in the case of Rachell Langton, or Verney, the Court judgeth it meete to declare, that she is free from hir late husband, Joseph Langton." 4 Records of Mass. (Part II) 8.

On November 12, 1659, the general court made the following order :

"In ansr to ye peticon of George Halsall, humbly desiring that Jane, his wife, lately divorced from him by the Court of Asistants, 1656, may be retourned to him, &c. the Court, on a hearing of the matter contejned in his petition, and duly considering of all the evidences by both partjes produced in the case, doe order, that the judgment of the sajd Court of Asistants in reference thereto be voyd, and that the sajd George Halsall shall haue and enjoy the sajd Joane Halsal, his wife, againe." 4 Records of Mass. (Part I) 401.

The statute at this time certainly vested the jurisdiction over divorces in the court of assistants. It will be seen, therefore, that the general court upon a new proceeding overthrew the jurisdiction of the proper court, set aside a divorce regularly granted by that tribunal, and remarried a divorced couple by decree against the will of one of the parties.

On October 21, 1863, the general court made the following decree :

"In ansr to the petition of Margaret Bennet, in behalf of Mary White, hir daughter, humbly desiring to be sett free from Eljas White, hir husband, for his deficiency, &c, in hir peticon & by wittnesses therein exprest & proved, the Court judgeth it not meete to graunt hir request." 4 Records of Mass. (Part II) 91.

Again : On October 12, 1670, the general court made the following decree :

"In ansr to the petition of Elizabeth Steevens, wife of Henry Steevens, it appearing to the Court that the sajd Henry Steevens hath deserted his wife & held vulawfull familiarity wth another woman, this Court judgeth it meete to declare, that the petitioner marrying any other man shall not be indangered thereby as a transgressour of our lawes." 4 Records of Mass. (Part II) 465.

These illustrations show beyond any reasonable doubt that



the practice of the Bible commonwealths was, to put it mildly, as liberal in matters of divorce as that of New Hampshire since the Revolution. When they decreed divorces from the bond of matrimony instead of from bed and board, they restored the law as it existed in Great Britain prior to the decree of the star chamber in 1601. Divorces dropped in the Bay colony with the new charter and the advent of Andros in 1686. By the act of August 22, 1695, such causes were to be "heard and determined by the Governor and Council." This tribunal dragged on until as late as Feb. 9, 1760, without a seal, without rules, without formalities, and even without records, except those in which executive acts, proceedings, and the like were recorded together. After that something like order and system prevailed until the Revolution. By chapter 69 of the act of 1785, jurisdiction in such matters was conferred upon the highest court of the commonwealth, where it has ever since remained.

We have already seen that the wife of Stephen Bachiller, formerly of Hampton, had obtained a divorce from him, when the Bay colony exercised jurisdiction over New Hampshire and Maine. The Cutt commission certainly did not in terms make the governor and council here a divorce court, and probably nothing was further from the intention of the crown. It is questionable whether Mrs. Colcord, to whom reference has been made, was not the first applicant for divorce under the province.

Sarah Pearce, in her libel of December 6, 1681, recites that she was "encouraged by your pious favor to Mrs. Colcord." Unless Mrs. Colcord was the first applicant under the provincial government, Sarah Pearce was. She was an heiress. Her husband wasted her estate, and deserted her. The allegations of her libel were, that her husband was "living under sore suspicion of notorious fornication (as public fame gives it out);" that he had deserted her for above seven years; threatening to poison her and to knock her on the head, if she came near him. 8 N. H. Hist. Collections 68.

There is no evidence that a divorce was granted here, but prior to February 28, 1682, she had obtained a divorce in the Province of Maine and had been duly married by one of the governor's council to Henry Seavy, of Portsmouth. Where-

fore Thomas Seavy, the father of her second husband, prayed that they "may be more formally married, that they may know how to sue for their own." 8 N. H. Hist. Collections 117, 118.

On July 26, 1697, the records of the council recite:—

"Whereas Eliza Smart presented her petition desiring a divorce from her husband, he being married to another woman at New York as by testimony from his own hand to Jno. Hinks, Esq. President, as also the testimony of Rob. Almarty; if therefore the said Rob. Almarty do swear before the Justice of the Peace to the truth thereof, then the President do issue forthwith a Bill of divorce accordingly." 2 Prov. Papers 249; see 3 Prov. Papers 312.

As the libel is not given, and there is no record of the Assembly, it is impossible to determine whether this was addressed to the legislature or not. The attempt was to delegate the power to grant a divorce to the President. He was to grant a divorce upon an affidavit. There is no evidence that any affidavit was furnished or that any divorce was granted. Careful investigation shows that none of the original papers are in the archives at the state-house, or known to exist elsewhere.

The act of June 14, 1701, section 5, provided virtually for what is now an existing cause of divorce, to wit, "that if any Married Person Man or Woman hath lately, or hereafter shall go to Sea, in any Ship or other Vessel bound from one Port to another, where the passage is usually made in Three Months time; and such Ship or other vessel hath not been or shall not be heard of within the space of Three full Years, next after their putting to Sea, from such port; or shall only be heard of under such circumstances as may rather confirm the Opinion commonly received of the whole Companies being utterly lost; in every such case the matter being laid before the Governour and Council, and made to appear, the Man or Woman whose Relation is in this manner parted from him or her may be esteemed Single, and Unmarried; and upon such declaration thereof, and License obtained from that Board, may Lawfully marry again: any Law, Usage or Custom to the contrary notwithstanding." N. H. Laws, ed. 1726, 10.

This act was repealed June 20, 1792. Strange as it may

seem, if the Governor and Council were ever called upon to act under this law, no record thereof exists.

Thomas Holland was a merchant, sea-captain, a conspicuous man in the province, and one of the henchmen of Governor Dudley.

On October 5, 1702, his petition for divorce was read at the Council Board. As none of the original papers can be found at the state-house, the precise form of the allegations and the prayer is unknown.

It is clear, however, that she was charged with "adultery," "lewd carriage," "and other injuries done him in the embezzlement of his estate."

She admitted the adultery, but to some extent denied the other charges, and set up condonation as a defence. She testified before the board to acts which constituted a condonation. The husband testified "to the contrary." Two other witnesses (women) testified, but their testimony was not decisive.

On October 8, 1702, after reading his complaint, the council ordered,—

"That the said Thomas Holland do forthwith provide for their three children; and that he allow her, said Elisabeth, six shillings per week for her maintenance during her residence in this province, and that public notification be given throughout this province.

If what the husband alleged and the wife admitted was true, it was clear that he was entitled to an absolute divorce, unless he had condoned her offence. If he had, he had no standing, and should have been sent out of court. But this anomalous decree, unless as a personal order, *pendente lite*, was outside the pale of all law.

There is no evidence which has any tendency to show that the matter up to this time had ever been brought to the attention of the house of representatives.

What would seem to have been the second petition, or libel for divorce, was read before the council board at the legislative session on February 10, 1703. This can be found at length in 3 Prov. Papers 277, 278.

This set up the marriage, birth of three legitimate children, non-access for two years, adultery and conviction thereof before

the council and her confession, the birth of another child as the fruit of this adulterous connection, and prays for "a divorce" or "separation."

Both houses concurred in granting a divorce—*a mensa et thoro*. The decree is set out at length in 3 Prov. Papers 279, 280. A copy was served upon Mrs. Holland by the secretary, who also showed her the original.

This was, if possible, a greater travesty upon justice than the other.

So far as known, it was the first and *last* divorce *a mensa et thoro* in New Hampshire, and the first legislative divorce here of any kind. Such divorces, as we have seen, began at a very early period in some of the colonies. Legislative naturalization of aliens began with the act of the colonial assembly of Maryland, in 1666. In 1773, George the III, by instructions to the governors of New Hampshire, Massachusetts Bay, New York, New Jersey, Virginia, North Carolina, South Carolina, Georgia, East Florida, West Florida, Quebec, Nova Scotia, the island of St. John, Barbadoes, Leward Islands, Grenades, Dominica, Jamaica, Bahamas, and Bermuda, prohibited such acts of divorce and legislation.

On April 12, 1771, an act was passed in New Hampshire "dissolving the marriage relation of Greenwood Carpenter and Sarah Leathers." This divorce was granted for adultery proved and confessed by her under her hand and seal. Probably for the reasons which caused the king to issue this proclamation, this act was disallowed by the king in council Sept. 1, 1773.

On December 14, 1773, the disallowance was communicated by the governor to the council, who "did thereupon advise that a proclamation be printed in the *New Hampshire Gazette* in consequence of the order aforesaid to render the said act null and void." 7 Prov. Papers 22.

All divorces since Holland's case were legislative until the divorce jurisdiction was transferred bodily to the highest court of the state by the constitution of 1784, by which alone divorces have been granted from that day to this.

From the earliest period to the present time the parties have been allowed to testify. Until at least as late as *Poor v. Poor*, decided at the December term, 1836, 8 N. H. 307, the parties



were usually heard upon affidavits, which were frequently drawn up by the parties themselves, or by some justice of the peace.

From March 16, 1680, to the present hour, there has been a radical difference between our two legislative bodies, and this was especially marked during the entire provincial life of New Hampshire. The council, as a whole, was the representative of royal authority, and the stronghold of favorites, placemen, nepotists, and of an aristocracy that prided itself on its "blue blood."

The house of representatives was not unfrequently termed by the royal governors "the commons," and in the long run, for good or for evil, it has fairly represented the township system, and, through that, the people. The house from the outset, when a proper case was made, voted steadily for divorce, and the council for quirks instead of justice.

The case of Martha Langdon, otherwise Barrell, *v.* William Barrell, is a pointed illustration. On November 27, 1765, three months after marriage, she filed her libel for divorce. The charge was impotency. The prayer was as follows:

"That your petitioner is advised that by the canon law & also by statute, she is entitled to a divorce *a vinculo matrimonii*, or the bonds of matrimony by reason of the premises had the same happened in England, and your petitioner had proceeded therefor in the spiritual court there. And that as no such court exists here, your petitioner must of necessity apply to the general court, where the matter of this petition is properly cognisable and your petitioner may meet with redress.

"Your petitioner therefore most humbly prays that your excellency & honours will take the matter of this petition into your consideration & that the said William may be cited to answer and your petitioner may be permitted to enter into such proofs of her allegations as to your excellency & honours shall seem meet & satisfactory and that she may have leave to bring in a bill of divorcement, whereby the said formal marriage between your petitioner and her said husband may be rendered and declared null and void to all intents and purposes."

The parties were heard in person and by counsel. On November 30, 1765, the house voted to grant her prayer, and forth-

with sent this vote to the council, which on January 23, 1766, concurred in the vote of the house with an amendment that either party might bring in bill for a divorce *a mensa et thoro* "to liberate the parties from all demands of their persons or estates respectively, unless some future mutual agreement between the said parties to the contrary should take place, until which time their issue be illegitimate."

The stupidity and infamy of this amendment are incomparable. Mrs. Barrell, if she proved her case, was entitled to a sweeping judgment in her favor. If she failed, she should have been turned out of court. Instead, the parties were left both married and single, and their offspring were made bastards. Having decided the case, the upper house began taking testimony. They ordered a medical inspection of the husband, a thing—though allowed in the spiritual courts and Plymouth colony—which never received sanction even in Vermont until 1862, in the famous case of *Le Barron v. Le Barron*, 35 Vt. 365-372, in which the opinion was delivered by Chief-Justice Poland.

The report of the examiners was made on January 24, 1766, the next day after the matter had been decided by the council, and is as follows :

"Whereas Martha, the wife of William Barrell hath preferred a petition to his excellency, their honores the council, & house of representatives for leave to bring in a bill of divorce on account of the impotency of the sd William.

"We, the subscribers, being desired by the honbl. councill to examine the said William Barrell, do report upon oath, that after due examination of the sd William, we find him amply furnished to satisfy the natural & rational inclinations of any modest woman, & that as far as we can discover there does not appear any mark of impotency.

Clemt. Jackson

Danl Rogers

A. R. Cutter.

Portsmouth 24th Jany. 1766."

A careful examination of the libel and the medical certificate shows that, while the latter apparently negatives the charge in

the former, it does not really deny that Mr. Barrell was impotent.

But on January 25, 1766, the house, after consideration, refused to concur in the amendment proposed by the council.

What became of this case is not certainly known, but Dr. Bouton, 7 Prov. Papers 148, among other things, states that between August 18 and October 2, 1767, a bill was passed "to dissolve the marriage of Wm. Barrell with Martha Langdon."

From 1703 until 1784 the legislature acted upon the theory that it had the powers of parliament, but the propriety of its exercise in a particular case was another question.

The act of February 17, 1791, authorized divorces from the bond of matrimony of parties within the prohibited degrees, for bigamy, impotency, adultery, absence for three years without being heard of, failure on the part of an absent husband to support his wife for three years together, and for extreme cruelty.

Our present laws reduce the causes one, and add nine, an increase of eight. These additions are mainly nominal rather than real, and are practically for the benefit of wives. No causes have been added for twenty-nine years. One of these, in 1854, gave the wife a right to a divorce where a husband had, and the other gave the wife whose husband had been absent from the country for ten years and neglected to provide for her and to assert his marital rights here, a divorce. These were both but forms of desertion.

Aside from these, no new cause has been added since December 24, 1840.

A brief summary of the history of the causes created after the act of 1791 and before the revision may be found useful.

What is known as the ninth cause grew out of the troubles between Mary M. Dyer and Joseph Dyer the Enfield Shakers, and parents of Caleb and Orville Dyer.

She wanted a divorce, and a part of the property which she and her husband had carried to the Shakers.

On December 24, 1824, an act was passed giving a husband or wife, when the other party had joined a sect believing as the Shakers did, and so acting for three years, a divorce. The

second and third sections made the statute applicable to the case of Mrs. Dyer without naming her.

At the May term, 1828, she filed her libel. It was contested, but at the November term, 1830 (5 N. H. 271), she prevailed. This is the foundation of all our non-cohabitation statutes.

At the May term, 1839, Isaac B. Greenlaw, of Boston, Massachusetts, was convicted of felony and sent to the state prison in that state. His wife was from Maine. She wanted a divorce. On December 24, 1840, an act was passed covering such cases. She soon after applied here for a divorce. It was denied in 1841 (12 N. H. 200) upon the ground, first, that strangers could not use our courts as unmarrying machines, and, second, that the statute could not constitutionally cover a case which arose before the statute.

In 1866, in *Martin v. Martin*, 47 N. H. 52, our court, Chief-Justice Perley, speaking for the full bench, though the contrary interpretation had been acted upon by the court of which he was a member, decided that the wife was not entitled to a divorce unless the husband was imprisoned in the New Hampshire state prison. In this way an efficacy was given to our state prison not possessed by others.

Judge Fowler, one of the commissioners of revision in 1867, who did not relish the views of Judge Perley in this particular overmuch, so changed the law by the General Statutes as to take away the special virtue and charm of an imprisonment in our state prison.

The act of December 24, 1840, added in form one new cause, habitual drunkenness for three years. This was to meet a special case. But as in 95 cases out of 100 such a drunkard becomes a brute instead of an unoffending simpleton, and is guilty of extreme cruelty, it affected but a small percentage of cases.

Cruelty had long been a recognized cause for divorce. Some eminent jurists, with more book learning than sense, held that while it was cruelty for a husband to strike or otherwise physically ill-treat his wife, though she might recover from it in an hour or a day, it was not cruelty if without physical violence he tortured her out of her senses or tormented her to the confines of the grave. Others held exactly the reverse.



To get rid of this doubt in some special cases, and the influence of Chief-Justice Parker, who, according to the common understanding of the profession, hated divorces because he hated women, and hated women because a pretty sweetheart, when he was young, "bit him in the mouth," the legislature on December 24, 1840, provided that it should be a cause of divorce "when either party shall so treat the other as to injure health or endanger reason."

These are nothing more than forms of cruelty, and really add nothing, but in the present statute are put down as making two additional causes for divorce. The others are simply forms of desertion, and with a sensible court there never was the slightest occasion for any of them.

The act of December 24, 1840, provided that "when the conduct of either party shall be so gross, wicked, and repugnant to the marriage covenant as to occasion the separation of the other for the space of three years, or, having been so gross, wicked, and repugnant to the marriage covenant as to occasion the separation of the other, shall so continue to be for such further space of time, not less than one year, as to amount to three years."

This provision manifestly owed its origin to a special case or cases not covered by the general law. It was swept away by the revised statutes in 1843.

More than two hundred years ago divorces would have been granted for all the causes set forth in our statutes, unless possibly for habitual drunkenness and imprisonment in the state prison.

The act of July 2, 1870, which took effect after January 1, 1871, transferred the trial of divorce causes from the law to the trial term. My purpose in framing this act was not to facilitate divorce, but to get rid of the ruinous expense of masses of depositions,\* and to enable the court, by oral hearings and by the power to "require the personal attendance of any witness or witnesses," to sift the truth from falsehood, and prevent the granting of divorces upon manufactured paper testimony.

While all fraud and collusion cannot be prevented, this act

\*Between four thousand and five thousand pages of depositions were taken in a single case.

has, in general, admirably answered the end for which it was designed.

We have more divorces now than formerly,—first, because we have more people ; and, secondly and mainly, because of the character of the floating population that comes and goes in our manufacturing towns, and the influence that population has upon the people in the lower walks of life,—but not, as so many without due consideration suppose, because the statutes have been steadily creating new causes, or growing more lax in terms or in substance.

Intelligent members of the profession do know, and the general public should know, that there never has been a time in the history of New Hampshire when any divorce tribunal has been disposed to favor divorces. The tendency has always been the other way, and this tendency was very marked during the time that Judge Parker was a member of our highest court, and largely so under those who succeeded him down to 1855. Counsel were not allowed to agree upon alimony, even where there was notoriously a clear cause for divorce. The judicial scales have always inclined, and do to this day, against divorce. The real difficulty lies deeper. So long as divorces are allowed for any cause, there will in spite of the judges be what are practically divorces by consent : whether that consent be express or tacit is immaterial. Married couples, for a variety of causes and under a great variety of circumstances, grow weary of the tie, or one of the parties does, and the other at last makes no sign. In person or through friends they come to understand each other. Often there is a real ground for divorce, or there is a clear apparent cause, where one of the parties does not appear. If this fails, one of the parties does an act which is a palpable cause for divorce,\* or one where there is no guilt, but which under the circumstances is strong evidence of guilt. The cause is entered and goes to proof. The defendant does not appear, the case is clear, and the decree follows. Not unfrequently couples are divorced for desertion, cruelty, etc., etc., where the real cause is adultery ; but the parties put it upon another

\* The supreme court of one of our sister New England states once denied a divorce upon the ground that they "were not fully satisfied that the adultery charged was committed *in good faith*."

ground, which often is the result of the first cause, to avoid scandal, loss of reputation and position of the parties or their friends, and more frequently that of children. The only way in which this can be stopped is to adopt and extend the practice which prevails in the mother country, to wit, make it the duty of the attorney-general, or some other public officer, to intervene in every divorce suit, and pay the expenses thereof out of the public treasury. The state undoubtedly cares for the morals of its people, but it is very questionable if it adopts the only remedy which can in any practical sense be found to be effective.

## FIELD DAY.

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WEDNESDAY, SEPT. 26, 1883.

The second field-day of the society was held this day at Portsmouth.

On the arrival of the morning train at the Concord station in Portsmouth, the members in the excursion, with their friends, were met by a delegation of the members resident in that city, and by them accompanied to the Rockingham house.

Thence, in carriages, the party visited the Benning Wentworth mansion at Little Harbor, and Odiorne's Point,—the latter being the site of Thomson's first settlement in New Hampshire in 1623.

After inspecting these interesting localities, the party returned to the Rockingham house, and partook of a sumptuous dinner.

Hon. Charles H. Bell, president of the society, tendered a resolution of thanks to the members resident in Portsmouth for courtesies extended, which was unanimously adopted.

During the afternoon visits were made to the Gov. John Wentworth mansion on Pleasant street, occupied by A. S. Wentworth, Esq.; the historic residences of Mark H. Wentworth, Esq., and Dr. F. E. Langdon, the latter once the abode of Gov. John Langdon; and the Gen. Whipple house, now occupied by Alex H. Ladd, Esq.,—at all of which the visitors, under the escort of W. H. Hackett, Esq., were most kindly received, and shown numerous objects of great historic interest.

This second field-day, held in the storied provincial capital of New Hampshire, was a pleasant continuation of the useful enjoyment of the first, held at Dover a year before.



ANNUAL MEETING.

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CONCORD, June 11, 1884.

The sixty-second annual meeting of the society was held this day, at 11 o'clock A. M., at its library-room, the president in the chair.

The records of the last annual meeting and the second field-day were read and approved.

The report of the treasurer, Mr. S. S. Kimball, was presented and accepted. The report showed debts, \$8,094.19; credits, \$196.06; balance, \$7,898.13;—increase the past year, \$1,043.

The recording secretary reported that the following persons had accepted membership during the year:

## RESIDENT MEMBERS.

John T. Perry, Exeter; George E. Jenks, Concord; Dr. Paul A. Stackpole, Dover.

## CORRESPONDING MEMBERS.

Daniel Rollins, Esq., Hon. William W. Tucker, Boston, Mass.; Rev. Thomas Witherow, D. D., Londonderry, Ireland.

## HONORARY MEMBER.

Jonathan Marshall, Esq., New York city.

Mr. Woodbridge Odlin was appointed to serve, instead of the absent treasurer, during the meeting.

Mr. Samuel C. Eastman, librarian, presented his annual report, which was accepted. The report stated that the library had been open four days in a week during the session of the legislature; had been closed during the winter, but open somewhat irregularly, once a week, during the remainder of the year. The library contains over 10,000 volumes, counting each bound volume of pamphlets as one, and an unknown number of pamphlets. The additions during the year were 160 volumes and 510 pamphlets.

Hon. J. E. Sargent, from a committee appointed last year to consider the subject of a Centennial Record, reported that no action thereon was deemed expedient. Accepted.

Mr. S. C. Eastman, from the committee appointed last year to seek legislative aid in procuring historical material in England, reported that an appropriation had been secured; and he submitted the following resolution, which was adopted:

*Resolved*, That a committee of three be appointed, with full power to expend the appropriation of \$500, by the state, for a calendar of papers in the public record offices in England.

Committees to nominate officers and new members were appointed.

Mr. S. C. Gould offered the following resolution, which was adopted:

*Resolved*, That a necrologist be annually elected as one of the regular officers of the society.

Mr. J. B. Walker, from the committee to nominate officers, made a report, which was accepted, and the gentlemen therein nominated were elected to the offices designated, as follows:

*President*—Charles H. Bell; *Vice-Presidents*—Jonathan E. Sargent, John M. Shirley; *Corresponding Secretary*—John J. Bell; *Recording Secretary*—Amos Hadley; *Treasurer*—Samuel S. Kimball; *Librarian*—Samuel C. Eastman; *Publishing Committee*—Charles H. Bell, Amos Hadley, Samuel C. Eastman; *Standing Committee*—Joseph B. Walker, Sylvester Dana, Joseph C. A. Hill; *Library Committee*—Amos Hadley, Edward H. Spalding, J. E. Pecker.

On motion of Mr. S. C. Gould, the publishing committee was instructed to procure the publication of an edition of the constitution and by-laws, with a list of members down to the present year.

On motion of Mr. S. C. Eastman, thanks were tendered Hon. Geo. H. Moore, of the Lenox library, New York, for the skilful repair of John Farmer's Biographical Register, author's edition, and its enclosure in morocco box.

On motion of Mr. S. Dana, a committee was ordered to be appointed to take into consideration any needed changes in the constitution and by-laws of the society.

Mr. J. E. Sargent, from the committee appointed to nominate new members, reported the following named persons, who, upon the acceptance of the report, were unanimously elected by ballot members of the society.

#### RESIDENT MEMBERS.

Rufus P. Staniels, Isaac W. Hammond, Charles R. Walker, M. D., Charles P. Bancroft, M. D., Irving A. Watson, M. D., Rev. Sullivan Holman, Franklin Low, Concord; Hon. William S. Ladd, Lancaster; Col. Edward H. Gilman, Exeter; Hon. David H. Goodell, Antrim; Albert S. Batchellor, James R. Jackson, Littleton; John Hatch, Greenland; Col. Gilman H. Tucker, Raymond; William M. Barnard, Franklin.

#### CORRESPONDING MEMBER.

Rev. John LeBosquet, Southville, Mass.

#### HONORARY MEMBERS.

Israel W. Andrews, Marietta, Ohio; William H. Hotchkiss, M. D., New Haven, Conn.; Nathaniel J. Sawyer, M. D., Frankfort, K. Y.; Nathaniel U. Walker, Boston, Mass.; Charles R. Buddy, Denton, Texas; William F. Holmes, Castleton, Dakota; Duc de Broglie, Paris, France.

On motion of Mr. W. Odlin, the assessment on each resident member of the society for the coming year was fixed at two dollars.

On motion of Mr. J. B. Walker, Amos Hadley was invited to deliver the annual address at the next annual meeting of the society.

On motion of Mr. W. Odlin,—

*Resolved*, That the field-day for the present year be held at Exeter, at a time to be designated by the president.

On motion of Mr. J. B. Walker, a committee was ordered to be appointed upon the increase of the librarian's fund; and it was resolved that when the present meeting adjourn to-day, it be adjourned to some early day.

Mr. John Kimball, in behalf of the executors of the will of the late Mrs. N. G. Upham, presented a portrait of the late Hon. Nathaniel Gookin Upham, which was accepted with appropriate remarks by the president, and with a vote of thanks to the executors, moved by Judge Dana.

Adjourned till 2 o'clock P. M.

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### AFTERNOON SESSION.

The society met according to adjournment, the president in the chair.

The chair announced as the committee to consider changes in the constitution and by-laws, Messrs. S. Dana, John Kimball, and Amos Hadley.

The committee on the nomination of new members was enlarged by the appointment thereto of Albert L. Batchellor of Littleton, Dr. Irving A. Watson and Isaac W. Hammond of Concord.

The following resolution was adopted :

*Resolved*, That Messrs. J. B. Walker, J. E. Pecker, Moody Currier, E. H. Spalding, Geo. L. Balcom, and Wallace Hackett, be a committee to take such measures as to them may seem proper to increase the income of the librarian's fund, and that they make report at the adjourned annual meeting of the society, to be held at Concord on the 16th day of July next.

On motion of Mr. J. B. Walker, it was resolved that when the society shall adjourn this afternoon, it do so to meet again on Wednesday, July 16th, 1884, at 11 o'clock A. M.

On motion of the same gentleman, the matter of securing a librarian was referred to the library committee and present librarian, with instructions to report at the next meeting.

Adjourned till Wednesday, July 16, 1884.



ADDRESS  
OF  
CHARLES W. TUTTLE, PH. D.,  
ON THE  
200TH ANNIVERSARY  
OF THE ESTABLISHMENT OF THE ROYAL PROVINCIAL  
GOVERNMENT OF NEW HAMPSHIRE.

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The Proceedings of the Special Meeting of the Society, convened at Portsmouth, on the 29th December, 1880, at which this address was delivered are given on page 215. Mr. Tuttle kindly acceded to the request of the Society for a copy of the address for publication, but desired to retain it for a time in order to make some additions to it. But, by reason of his many employments, and of his lamented death, the intended additions were never completed, and the address itself was mislaid, so that it could not be inserted in its proper place in the Proceedings. Having since been recovered, it is here given as it was delivered.

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ADDRESS.

The event which we commemorate on this occasion is the most memorable in the annals of New Hampshire. This event is no less than the organization of the first lawful government over the Province of New Hampshire, the establishment of a political existence which has now endured for two centuries. It is no less an event than the emancipation of the first generation of settlers on this soil from the bondage of an usurper, and the recovery of their birthright and independence.

The year 1680 is commonly regarded as the end of the first period of New Hampshire history. It seems to me this period is properly divided into two. The first, beginning in 1623 and ending in 1641, during which the first settlements were made, and four towns had arrived at maturity. The second period beginning with the extension of the jurisdiction of Massachusetts over the towns and the entire province, and ending with the establishment of a government over New Hampshire, raising it to the dignity of a British Province in the year 1680. I shall now briefly consider the events of these two periods, particularly those leading to the establishment of a royal government in 1680.

In the year 1620 James I of England granted to forty persons, consisting of nobles, knights, and gentlemen, all the territory in North America lying between 40 and 48 degrees north latitude, and between the Atlantic and Pacific oceans, with power to govern the same. This association was styled "The council established at Plymouth, in the county of Devon, for the planting, ordering, ruling, and governing of New England in America." To this vast extent of territory was given the name New England. Except a few scattered English settlements on the coast of Maine, it was still an unbroken wilderness throughout. The council proceeded to make small grants of their territory along the Atlantic coast to such Englishmen as desired to make plantations in America. In 1622 this council granted to Capt. John Mason, who had just returned to England from Newfoundland, where he had been governor of a colony of English for seven years, all the land lying along the Atlantic from Naumkeag River to the Merrimack River, and extending back to the heads of those rivers. This tract of land was then and there named Mariana, and I submit, in compliment to the Spanish Infanta, to whom Prince Charles of England was then affianced, and not in compliment to the Princess Henrietta Maria, as historians will have it. In 1622 the council granted to Capt. Mason and Sir Ferdinando Gorges all the land lying between the Merrimack River and the Kennebec River, extending sixty miles inland, and this was called the Province of Maine. This grant included what was afterward New Hampshire. Seven years later, in 1629, Mason and Gorges divided their grant of the Province of Maine, Mason taking that part lying between the Merrimack River and the Piscataqua River,

and naming it NEW HAMPSHIRE. The council confirmed this to him by a grant. This is the first appearance of the name New Hampshire in New England, and it survives to-day, the only name of an English county applied to any of the states.

In 1628, the council granted to several persons or associates, known afterwards as the Massachusetts Bay, a tract of land lying between Charles River on the south and the Merrimack River on the north, and extending three miles beyond these two rivers, and east and west from the Atlantic to the Pacific ocean. The council had never hitherto made a grant of such an enormous extent of territory and of limits extending beyond the rivers that bounded it. A patent so ample was regarded with astonishment, especially as it covered Mason's patent, Mariana, and also Capt. Robert Gorges's patent of Massachusetts Bay. This mischievous grant not only broke up the council at last, but gave trouble for one hundred years to all the colonies that bounded on it. In the spring of 1623, David Thomson, with a small company, established themselves at Little Harbor, at the mouth of the Piscataqua River, on the large grant that had been made to Mason and Gorges only the year before. So far as known this is the first settlement in this state. About the same time a settlement was made at Dover. For fourteen years these were the only settlements in New Hampshire. Hampton was settled in 1637 by people from Massachusetts. Exeter in 1638 by Wheelwright and others banished from Massachusetts. Capt. Mason had great expectations of making his province worthy of his efforts. His employment at home as paymaster and treasurer of the army in the wars with Spain and France had prevented his visiting his American province. He had sent agents and servants with all necessary articles to make a plantation and look for mines. In 1635 he was made vice admiral of New England, and was preparing to come hither when he fell ill and died, to the great comfort of Massachusetts Bay. He was an unflinching royalist and churchman, a neighbor that the bay much disliked.

No sooner was Mason dead, than dreams of aggrandizement were heard in the Bay. They had discovered that the Merrimack River, after running westerly thirty or forty miles, turned northerly and ran fifty or sixty miles in that direction. They construed their patent to mean that their northern bounds should be three miles

north of the northermost point of Merrimack River, and from that point run east to the Atlantic Ocean and west to the Pacific. It was plain enough to see that such a construction would not only take into their jurisdiction all Mason's patent, but most of Gorges's in Maine. Their east line ran into Casco Bay, and all south of it, to the Pacific Ocean, was Massachusetts. They notified the people of New Hampshire that they were living within their patent, and threatened them that they would look into their northern boundaries, and would see how far north the Merrimack River extended.

The first thing was to seize upon the fair lands in Mason's patent, called by the Indians Winnicowitt, and grant it to their people. In 1639, they incorporated it a town, by the name of Hampton, and its allegiance was always claimed by the Massachusetts government. Massachusetts had resolved to get the three other towns under her jurisdiction by her policy of intrigue, without actual force. Portsmouth was strongly Episcopalian, and Episcopalians were Royalists. Dover was divided, part Episcopalian and part Puritan. Exeter and Hampton were Puritans. She began to intrigue with Dover, and the Puritan element fell into her embrace taking along with them the Royalists. Portsmouth was persuaded to follow Dover, some of the leading loyalists having been first tampered with by the Puritan agents of Massachusetts. Portsmouth and Dover yielded to the jurisdiction of Massachusetts in 1641; Hampton was already there, but Exeter held out till 1643.

New Hampshire, or Mason's patent, as it was frequently called, was now entirely wiped out from the political map of New England. The only power to remedy this great abuse was in the King of England. He was now in arms and about to enter into a death struggle with the Puritan parliament. The heirs of Capt. John Mason were young, the eldest not above ten years of age. Massachusetts, having gotten these four towns into her jurisdiction, then made her territory into counties. She formed all the towns north of the Merrimack River, including Portsmouth, Dover, Exeter, and Hampton, into one county, and named it Norfolk.

Prior to 1641, no general government had ever been placed over the towns. Each settlement, except Hampton, had asso-



ciated and agreed upon articles by which they would be governed till the King should otherwise direct. The *jura regalia* were in the King. Capt. Mason was expecting the destruction of the charter of Massachusetts, and that a general governor would be placed over New England. This would have secured to his province all the government that was needed. A period of nearly forty years now followed, during which the name of New Hampshire was seldom if ever heard. New generations had come upon the soil, and the people had become hardened into Puritan usages.

The restoration of Charles II to the throne of England, in May 1660, was received in all the New Hampshire towns with joy by the Royalists that remained, and by all those who longed for emancipation from the yoke of Massachusetts. The Puritan element joined Massachusetts in deploring the event. In the month of July that colony received authentic information that the King was on the throne of his ancestors, and immediately received into its bosom two of the flying regicides. More than a year elapsed before his majesty was proclaimed King in that jurisdiction. The time had now arrived when those persons, and those colonies in New England which had been aggrieved by the acts of Massachusetts, could apply for redress in England. The King was ready to hear the complaints of his loyal subjects and do them justice. No one having interests in New Hampshire had greater and longer grievances than Robert Mason, grandson and heir of Capt. John Mason, the founder and proprietor of the province. His estate extended from the waters of the Piscataqua to the Naumkeag River, and every inch was then under the jurisdiction of Massachusetts. The first step towards recovering his estate was to get rid of the jurisdiction of Massachusetts and restore to the King his *jura regalia*. The sympathy and good wishes of all the inhabitants impatient of Puritan rule went with him, but they were unable to assist him beyond expressing their wishes. A great political question was involved in Mason's undertaking. His action, if successful, might lead not only to the recovery of his estate, but to the independence of New Hampshire; but if unsuccessful, then farewell to the province forever. What had been designed for a British province in New England had been for many years converted into a frontier county of Massachusetts. New

Hampshire could not be found on any political map of New England.

Robert Mason set about his designs with a spirit worthy of his ancestors. He suffered nothing to turn him aside. Before the end of the first year of his majesty's reign, he presented his claim for the territory of New Hampshire, in its fullest extent, to the King. His majesty submitted its legal aspect to his attorney-general, who soon reported that "Robert Mason, grandson and heir of Capt. John Mason, had a good and legal title to the province of New Hampshire." All well so far; but how was Mason to get possession of it? Massachusetts, the most powerful colony in New England, had long been in possession of the province, claiming it to be within her patent and jurisdiction. Here was a new and untried difficulty, and before any solution had been reached his majesty had been advised to send commissioners to New England, with authority to examine the many complaints which had been made to him, determine them where they could, and where they could not, report the facts to his majesty for his determination. Four commissioners were sent in 1664 and were well received in all the colonies, except Massachusetts, where they met with steady opposition. The King gave them no directions concerning Mason's claim to the territory of New Hampshire, neither did he forbid their attempting to compose the difficulty. Massachusetts having refused to treat with them on any question where she was concerned, nothing was attempted by way of negotiation.

In June, 1665, the royal commissioners passed into New Hampshire on their way to Maine. The inhabitants received them kindly, and those opposed to the rule of Massachusetts, prayed the commissioners to deliver them from that colony. They received a petition signed by about thirty inhabitants of Portsmouth, among whom were Champernowne, Pickering, Sherburne, Hunking, and many other well known persons, setting forth their grievances under Massachusetts laws and fanaticism, which had become oppressive, and praying for relief. Another petition, addressed to the King, was placed in their hands. It was signed by inhabitants of the four towns, praying his Majesty to take New Hampshire under his royal protection, that they might be governed by the laws of England. The commissioners,

being satisfied that Massachusetts was but an usurper in that province, appointed justices of the peace, in the King's name, with power to act under the laws of England, and to continue until the King's pleasure should be made known, and departed into Maine. Massachusetts hastened to undo all that the commissioners had done in New Hampshire.

That colony, seeing that Mason was persistent in seeking to recover from its grasp the Province of New Hampshire, now resorted to intrigue with Mason's agent, living at Portsmouth. They first despatched their secretary, Edward Rawson, to Joseph Mason, and afterwards Robert Pike. Their final proposition was to surrender to Robert Mason his lands if he would consent that Massachusetts jurisdiction might continue over them. Robert Mason unhesitatingly rejected the proposition when it was communicated to him. He had no wish to live under such a government; he desired to restore his province to the jurisdiction of English laws. Had Mason then and there yielded, there had been an end to New Hampshire. After some years, no progress having been made with the adjustment of the claim, Mason presented a petition to the King, stating that he had received no satisfaction and was wearied with the delay, Gorges had been equally unsuccessful in recovering out of the grasp of Massachusetts his province of Maine. The King despatched copies of these complaints by the hands of Edward Randolph to the magistrates of Boston, and required from them an answer to Gorges's and Mason's claims. The colony sent agents to England to make answer. The matter was referred to the Lord Chief Justices of England to hear and determine. To the surprise of all, the Massachusetts agents disclaimed title to the soil, but contended for jurisdiction over the province. The judges decided that the jurisdiction of Massachusetts went no farther than the boundaries expressed in the patent, and those boundaries, the judges said, cannot be construed to extend further northward along the river Merrimack than three English miles. This decision was approved by the King, and there was an end to Massachusetts jurisdiction over so much of New Hampshire.

No sooner was this decision reached than the Massachusetts agents made application to the King to settle the four towns, Portsmouth, Dover, Exeter, and Hampton, under Massachusetts,

at the same time stigmatizing the "inhabitants of those towns as few and of mean estate," and therefore of little consequence to any one. Massachusetts bestirred herself and procured petitions to be signed by some inhabitants in all the towns, requesting this to be done, and forwarded the same to their agents in London, who presented them to the Lords of the Committee for Trade and Plantations, but it was to no purpose; the King had resolved that Massachusetts should have no more territory or jurisdiction. The colony agents had approached Mason to buy his interest in the province while the matter was pending before the Lord Chief Justices, and he refused to sell to them. They were more successful with Gorges.

Mason was bound to stand by his interests in the Province. He had now pursued them since the restoration, eighteen years before. It was his earnest desire that the King should establish his government over the province, and at length his wishes were gratified. In July, 1679, the King wrote to the colony of Massachusetts, rebuking them for having purchased, without his knowledge or consent, Gorges's Province of Maine, and bade them prepare to deliver it to him, when he should be ready to receive it. He told them they need not expect the Province of New Hampshire would be annexed to that colony; that he had in view the establishing there such method as would benefit and satisfy the people of that place. He ordered the colony to recall all the commissions they had granted for governing New Hampshire, and thus prepared the way for his royal government. The four towns in the Province now awaiting the new government contained only about 4,000 inhabitants, although Portsmouth and Dover had been settled nearly sixty years before, and Hampton and Exeter forty years. No new settlement had been made while under the jurisdiction of Massachusetts, proof enough of the blighting effect of Puritan rule over this Province. Most of the present inhabitants never knew any other government than Massachusetts, having been born and reared under it. But among the aged, forty years' captivity had not entirely destroyed their love and reverence for the English Church and the English laws.

It is a singular fact that the chief trade of the province at this time was in masts, planks, boards and staves. Fishing seems to have been laid aside altogether. The new government immedi-



ately urged his majesty to make the river a free port, and annex the south half of the Isles of Shoals. Charles II and his ministers had now resolved to establish a government over that part of the Province of New Hampshire, which had been determined to lie outside the northern bounds of Massachusetts jurisdiction, and which contained within its limits only four towns, namely: Portsmouth, Dover, Hampton and Exeter.

Among the considerations that led his majesty to this undertaking were the petitions of the loyal inhabitants sent to him from time to time, asking to be taken into his immediate care and protection; the determination to see that his faithful subject, Robert Mason, had that justice done him which he had so long prayed for; and the preservation of those forests in the province which had yielded for the royal navy during many years the finest masts in the world. At that time three species of colonial government were in vogue among the British Colonies in America. There were the chartered governments, like Massachusetts and Connecticut; there were the proprietary governments, like the Provinces of Maine and Maryland; and there were the provincial governments, like New York and Virginia.

A provincial or royal government consisted of three branches, a governor or president and a council, both nominated and appointed by the King, and an assembly chosen by the people. It is manifest, that in this form of government the just prerogatives of the Crown and the constitutional privileges of the people are equally attended to. Such a government had been established in Virginia as early as 1619, and was hailed with applause. It has the distinction of being the first legislative assembly in America. It was an auspicious day for New Hampshire when Charles II adopted for it a provincial government, a government that continued over it for almost a hundred years. There had never been in New England, and there never was afterward, a government of this kind. New Hampshire has the distinction of being the only royal government this side of the Hudson River, a government administered by the King's Commission, in the hands of his lieutenant. The King was extremely desirous to compose the differences likely to arise between the inhabitants of the province and Mason, the proprietor. He points out, in the

commission, with some detail, what he wishes the president and council to do in the matter.

The Royal Commission for the government of the province of New Hampshire is dated Westminster, 18 Sept., 1679. It is in the form of other commissions for government, and is briefly as follows: "It inhibits and restrains the jurisdiction exercised by the Colony of Massachusetts over the towns of Portsmouth, Dover, Exeter and Hampton, and all other lands extending from three miles to the northward of the River Merrimack, and of any and every part thereof, to the Province of Maine; constitutes a president and council to govern the province; appoints John Cutt, Esq., president, to continue one year, and till another be appointed by the same authority; Richard Martyn,\* Willian Vaughan and Thomas Daniel of Portsmouth, John Gilman and Christopher Hussey of Hampton, and Richard Waldron of Dover, Esquires, to be of the council, who were authorized to choose three other qualified persons out of the several parts of the province, to be added to them. The said president, and every succeeding one, to appoint a deputy to preside in his absence; the president or his deputy, with any five, to be a quorum. They were to meet at Portsmouth in twenty days after the arrival of the commission, and publish it. They were constituted a Court of Record for the administration of justice, according to the laws of England, so far as circumstances would permit, reserving a right of appeal to the King in council for actions of £50 value. They were empowered to appoint military officers and take all needful measures for defence against enemies. Liberty of conscience was allowed to all Protestants, those of the Church of England to be particularly encouraged. For the support of government, they were to continue the present taxes, till an assembly could be called; to which end they were, within three months, to issue writs under the province seal for calling an assembly, to whom the president should recommend the passing of such laws as should establish their allegiance, good order and defence, and the raising of taxes in such manner and proportion as they should see fit. All laws to be approved by the president and council, and then to remain in force till the King's pleasure should be known, for which purpose they should be sent to England by the first ships. In case of the

\* Of Exeter.

NOTE. The \* should have been placed after the name of John Gilman instead of Richard Martyn.

president's death, his deputy to succeed, and on the death of a councillor, the remainder to elect another and send over his name, with the names of two other meet persons, that the King might appoint one of the three. The King engaged for himself and successors to continue the privilege of an assembly in the same manner and form, unless by inconvenience arising therefrom he or his heirs should see cause to alter the same. If any of the inhabitants should refuse to agree with Mason or his agents, on the terms stated in the commission, the president and council were directed to reconcile the difference or send the case, stated in writing, with their own opinions, to the King, that he, with his Privy Council, might determine it according to equity."

Who suggested to the King the names for president and council does not appear, but there were not in the whole province straighter Puritans or firmer friends of the Massachusetts Colony. They were avowed enemies of the Anglican Church, and they loved the laws and jurisprudence of England none too well. Everyone had been in office under Massachusetts during the usurpation, and everyone had signed the recent petitions sent to the King, praying to remain under the jurisdiction of Massachusetts. They hated Mason for detaching the province from Massachusetts, and they hated his claim to the soil more. All had gained considerable estates, mainly by commercial transactions. The planters of New Hampshire had no representative in the executive part of this new government. The Massachusetts Puritans must have smiled grimly when they came to see the names of their old compatriots in the royal commission.

Charles II and his ministers had been completely duped; and they found it out before the first year of the administration had ended. All the members of the executive government were born in England, and were now advanced in years. They had lived in the Province between thirty and forty years, and were well known in every part of it. John Cutt, named president in the royal commission, was one of three enterprising brothers whose names were already conspicuous in the commercial annals of Portsmouth. His whole life had been passed in commercial adventures. The sails of his vessels had whitened every sea known to the commerce of New England. He had long been known as an eminent and opulent merchant. He was now well advanced in years,

and lived in Portsmouth, the commercial metropolis of the province. His spacious homestead on Strawberry Bank was part of the lands which had been reduced to cultivation by the agents of Capt. Mason half a century ago. President Cutt had not seen much of public life. He appears to have avoided it. Once only had he been a member of the great and general court, and after a few days' service he got excused from further attendance. Occasionally he was a commissioner of the county court, and often a selectman of Portsmouth. In 1663, the town elected him constable, but he refused to accept and paid his fine, five pounds. He was an active and a conspicuous member of the Rev. Joshua Moody's church. His name stands with the original members.

Richard Waldron, one of the council, had no equal in the whole province. He had been a longer resident in the province than any other member of the board, and was a steady adherent to Massachusetts. He had been many years a member of the general court and seven years speaker of the house of deputies. He was strongly opposed to Mason's interest; and his influence in New Hampshire had always been great. The other five members of the council named in the commission, Richard Martyn, William Vaughan, Thomas Daniel, John Gilman and Christopher Hussey, were gentlemen who had had considerable experience in the local government under Massachusetts. The Royal Commission having passed the seals, the King wrote a letter to the president and council, and placed both with the provincial seal, in the hands of Edward Randolph, to carry to the Province of New Hampshire. The King also gave Randolph a portrait of his majesty, and the royal arms to be set up at the seat of government in the province. Randolph placed these somewhat bulky articles on a New England vessel which never reached its destination, and thus New Hampshire was deprived of these memorials of royalty.

Randolph's route lay by the way of New York. He sailed from England the last of October and arrived in Portsmouth on the 27th of December, 1679, little more than three months after the Royal Commission had passed the seals. Randolph at once presented himself to Mr. John Cutt, "a very just and honest man," says Randolph, and acquainted him with his royal errand. Cutt lost no time in sending summons to the members of the council named in the commission to meet at his house and receive from



Randolph his majesty's communications. On the first day of January, 1680, the council assembled, and Randolph placed in their hands his majesty's letter, and the Royal Commission for the government of the province. The letter and commission being read, most of the council desired time to consider whether they would accept. Waldron and Martyn were decidedly opposed to the commission. President Cutt and John Gilman of Exeter were ready to accept the commission. Nearly three weeks were spent in deliberating the matter by the hesitating members of the council. At last, seeing that the president was determined to organize the government within the time required by the commission, and that their places were likely to be filled by others, they accepted and took the oaths of office on the 21st of January. Meantime Cutt notified the inhabitants of the province to assemble at Portsmouth on the 22d day of January, and hear his majesty's commission read and proclamation made of his majesty's having received the Province of New Hampshire under his gracious favor and protection. This must have been a memorable day in Portsmouth, for it recorded that great acclamation and firing of cannon followed the announcement that they were under his majesty's government.

On that day the organization of the executive government was completed. The president made choice of Richard Waldron as deputy president, and the number of the council was made complete by the election of three new members. Proclamation was then made that all persons holding office in the province should continue in their places until further orders be taken by his majesty's government. The next step was to summon an assembly. A warrant was despatched to the selectmen of all the towns, then only four in number, requesting them to send to the president and council a list of the names and estates of the inhabitants. This being done, the council selected from the selectmen's list the names of such persons as they judged qualified to vote for assemblymen, and returned these names to the selectmen. Great complaint was made that many fit persons were deprived of the elective franchise. It is easy to see that the council had an opportunity to make the assembly, and probably did so. The election was ordered to take place March 9, and not above three persons for the assembly were to be chosen in any town.

The members of the assembly were summoned to appear at Portsmouth, on March 16, to attend to his majesty's service. On that day the first legislature in New Hampshire assembled and was organized. It consisted of nine persons, two from Exeter, and three from each of the other towns. Thus, in two and one-half months after the arrival of the royal messenger with the commission, the government was completely organized over the province, a government that was destined to continue, with but few interruptions, for a hundred years. New Hampshire was restored to her place on the political map of New England, never again to disappear. She was raised to the dignity of a British Province in America.

Portsmouth had the honor to be the seat of government during the entire period of the royal government. These were the scenes of all that was splendid in a provincial court. Portsmouth gave of her citizens the chief of the new government, John Cutt, and she also gave the last, Sir John Wentworth. The royal government was succeeded by a Republican government, whose centennial is at hand. *Esto Perpetua.*

# NEW HAMPSHIRE SOLDIERS

AT THE

## BATTLE OF BUNKER HILL.

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READ BY SAM'L T. WORCESTER,

AT THE ANNUAL MEETING OF THE NEW HAMPSHIRE  
HISTORICAL SOCIETY, JUNE 14, 1882.

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It is well known, as a matter of public history, that upon the "alarm" consequent upon the battle at Lexington, on the memorable 19th of April, 1775, many hundreds of the patriotic minute men and yeomanry of New Hampshire promptly hastened to Cambridge, and other points near Boston, to aid their brethren of the other colonies in defence of their common rights and liberties. Upon the first news of this "alarm," many of the New Hampshire volunteers, without any previous law of the province authorizing or requiring it, at once mustered at the parade grounds within their several towns, formed themselves into companies under officers of their own choice, and forthwith marched to the headquarters of the army. Hundreds of others, without being organized into military companies, also hastened to unite with their brothers in arms.

The Third New Hampshire Congress, so called, met at Exeter, April 21st, two days only after the battle at Lexington, and continued in session until the 21st of May. A part only of the towns in the province being represented in it, but little was or could be done by that convention in respect to raising and organizing troops (N. H. Prov. Papers, Vol. 7, 455, 456). Yet this convention, by unanimous vote, on the very first day of its session, appointed Col. Nathaniel Folsom to the chief command of such troops as had gone or might go from New Hampshire to aid their suffering

brethren in Massachusetts, and also to order for such troops all needful supplies (Vol. 7, Prov. Papers, 454). On the 23d of April, Major Andrew McClary, afterwards of Col. Stark's regiment (and who was killed at Bunker Hill), wrote to this congress from the army headquarters at Cambridge, that at that date (but four days after the battle of Lexington), "there were then present with the "army about 2000 brave and resolute New Hampshire men, from "the interior of the province, full of vigor and blood, but then "laboring under great disadvantage for the want of field officers, "and urging the congress to appoint them at once to prevent un- "easiness and desertion" (Prov. Papers, Vol. 7, 460). About the same time this New Hampshire convention received a letter, also dated April 23d, from Gen. Warren, then president of the Massachusetts congress, informing them that that congress had unanimously voted that it was their duty at once to establish an army for the defence of the rights of the colony—that a force of 30,000 should be raised in New England, of which 13,000 would be raised in that province, and telling the New Hampshire convention that their brethren in Massachusetts had no doubt of the patriotism of the colony of New Hampshire, and urging the speediest concurrence and aid in the common defence (Prov. Papers, Vol. 7, 456).

On the 26th of April, on reading the foregoing letter, the New Hampshire convention appointed Colonels Folsom, Bartlett, and Hobart a committee to the Massachusetts congress with a letter, informing that body that before the receipt of the letter of Gen. Warren, "Many New Hampshire men, fired with zeal for the "common cause, and resentment at the inhuman barbarity of "their enemies, had hastened at once to their aid, and that vast "numbers more had been stopped on their march on hearing that "they were not then needed." \* \* \* This letter farther adds, "That the New Hampshire congress then assembled, though "heartily willing to contribute in every advisable way to the aid of "the common cause, had judged that it was not expedient for that "body to determine upon the establishment of an army, as *all the* "towns in the province were not *generally* or *fully* represented. \* " \* But that in the meantime it had been recommended to "the several towns in the province to supply the men who had "gone from them with provisions and necessaries, if their con-



tinuance should be thought needful." \* \* \* This letter further informed the Massachusetts congress that a new congress had been called for New Hampshire, to meet at Exeter on the 17th of May, in which the Province would be *fully* represented, and that there could be no doubt that the new congress would co-operate with the rest of the people of New England in all measures needful for the common safety (Prov. Papers, Vol. 7, 467). On the same 26th of April this convention unanimously voted: That it be recommended to the several towns in the province to engage as many men in each town as they thought fit, to be properly equipped and ready on any emergency to march at a minute's warning (Prov. Papers, Vol. 7, 462). On the 7th of May, supposed to be the last day of the session, it was "Voted that in the present emergency, it be recommended by the convention not to discourage persons inhabitants of this province from enlisting in Massachusetts service." (Prov. Papers, Vol. 7, 466.)

#### DOINGS OF THE FOURTH NEW HAMPSHIRE CONGRESS.

The Fourth New Hampshire Congress met, as contemplated, at Exeter, on the 17th of May, all parts of the province being represented, and on the 20th of May, the fourth day of the session, "Voted to raise 2,000 effective men, inclusive of those then in the service, and that, if 2,000 were not the full proportion of the province, the convention would be ready to make the proper addition." (Prov. Papers, Vol. 7, 477.) Afterwards, on the 31st of May, it was voted that this force should be divided into three regiments and each regiment into ten companies as equally as convenient. Of these regiments Enoch Poor was appointed colonel of the Second on the 24th of May; James Reed of the Third on the 1st of June, and on the 3d of June John Stark of the First. (Prov. Papers, Vol. 7, 483, 496, 503.) At the date last named, Nathaniel Folsom was appointed brigadier-general of the three regiments, Gen. Folsom himself to be under the commander-in-chief of the New England forces. Most of the New Hampshire soldiers who had marched to the headquarters of the New England troops between the 19th of April and the 17th of May, had been organized into two regiments, under the authority, it appears, of the Massachusetts congress, with the acquiescence, if not the direct approval, of the New Hampshire convention,

with the understanding, however, that when properly mustered into the service they should form part of the New Hampshire quota. (Belknap, 359 ; Prov. Papers, Vol. 7, 466, 474.)

#### THE FIRST AND THIRD NEW HAMPSHIRE REGIMENTS.

The First New Hampshire Regiment, under Col. Stark, was organized and stationed at Medford ; the Third, under Col. Reed, previous to the battle of Bunker Hill, was near Charlestown Neck, both within about an hour's march of the battle grounds. Colonels Stark and Reed were both first commissioned by Massachusetts. (Kidder's Hist. 1st N. H. Reg't, 2.) Col. Reed, as we have seen, was afterwards commissioned by the New Hampshire convention on the 1st of June and Col. Stark on the 3d.

So far as I have been able to learn from the many histories of the battle of Bunker Hill, these two New Hampshire regiments were the only *entire* regiments present in the battle, the rest of the forces engaged consisting of detachments more or less numerous, from the Massachusetts and Connecticut regiments then at Cambridge. As the regiments of Reed and Stark comprised all the New Hampshire soldiers known to have been in the battle, except the company from the town of Hollis in the regiment of Col. Prescott and parts of a few other companies in the same regiment, it becomes essential to the present enquiry to ascertain, as nearly as may be, the respective numbers of these regiments.

#### THE REGIMENT OF COL. REED.

In respect to the number of men in the regiment of Col. Reed, the question is readily solved. In Frothingham's History of the Siege of Boston (pp. 187, 404) it is stated that on the 14th of June, three days before the battle, this regiment consisted of 486 men, rank and file, divided into ten companies, varying from 44 to 59 men in each. In an interesting and exhaustive paper by E. H. Derby, Esq., of Boston, entitled, "*New Hampshire in the Revolution*," read before the New England Genealogical and Historical Society in January, 1877, the number of men in this regiment is stated the same as by the historian Frothingham. Also in a return of his regiment made by Col. Reed himself to the New Hampshire convention, on the same 14th of June, it is shown that it then consisted of ten companies, including two companies just

before transferred to it from that of Col. Stark, and making in all 486 men, as stated in the Siege of Boston. (Prov. Papers, Vol. 7, 517; N. E. Gen. and Hist. Reg., No. 121, p. 35.)

#### THE REGIMENT OF COL. STARK.

But in respect to the number of men in the regiment of Col. Stark, the question is much less easily solved. No return of this regiment by Col. Stark can be found in the offices at Concord or elsewhere. (Frothingham, 156.) In a letter written to the New Hampshire convention by Gen. Folsom, on the 23d of June, but six days after the battle, he informed the convention that Col. Stark had repeatedly and absolutely refused to make any return. (Prov. Papers, Vol. 7, 528.) But it appears from a letter of Col. Stark himself, written from his headquarters at Medford, on the previous 18th of May, "that he then had 584 men besides drummers and fifers, and that the remainder of his men were hourly expected." (Prov. Papers, Vol. 7, 474.) A list of this regiment, as containing ten companies, with the names of the captains, is to be found in Frothingham's Siege of Boston, p. 402, and the same list of companies and captains is to be seen in the N. H. Adjutant-General's report for 1866, Vol. 2, 265; but the number of men in the several companies is not stated, and there can be no doubt, from other evidence, that this return of the list of the companies was made upon the re-organization of the army in the month of July, some weeks after the battle. (Frothingham, p. 220.) It may be stated in this connection that on the 3d of June, about two weeks before the battle, the New Hampshire convention voted: That ten companies of 62 men each, then at Medford, should be the First Regiment and that John Stark should be its colonel. (Prov. Papers, Vol. 7, 503.)

Mr. Kidder, in his history of this regiment, tells us that Col. Stark, under his Massachusetts commission, enlisted 800 men, who were divided into 14 companies. (Kidder, pp. 2, 3.) If these companies were equal they would average 57 to each. Two of these companies, shortly before the battle, as we have seen, were transferred to the regiment of Col. Reed, one of them, under Capt. Thomas, having 46 men, the other having 59, commanded by Capt. Whitcomb. (Frothingham, 405; Prov. Papers, Vol. 7, 418.)

Frothingham, in his *Siege of Boston*, speaks of Col. Stark's regiment as large and full (p. 186) and the historian Bancroft, in his history of the battle, says that Col. Stark, next to Col. Prescott, brought the largest number of men into the field. (Bancroft, 7, 419.)

Gen. Folsom, in his letter to the New Hampshire convention of June 23d, in which he told the convention that Col. Stark had refused to make any return, also stated that his regiment then consisted of 13 companies. And in a second letter, dated June 25th, Gen. Folsom again informs the convention that Col. Stark at that time had three supernumerary companies, and asked the convention for orders in respect to them. (Prov. Papers, Vol. 7, pp. 528, 530.)

Gen. Henry Dearborn, who was captain of one of Col. Stark's companies in the battle, and who wrote an account of it for the *Port Folio*, in 1817, tells us that Col. Stark had with him in the battle 13 companies. By the rules established by the New Hampshire convention a full company consisted of 62 men. If these companies were full, the regiment should have consisted in all of 806 men.

As we have already shown, Col. Stark himself refused to make any return of his regiment, and there is no evidence now to be found that any return was ever made by him. But, fortunately, among the original rolls and documents of the Revolution, within the office of the adjutant-general of New Hampshire, there is to be found a return of Henry Parkinson, the quartermaster of Col. Stark's regiment, dated July 2d, 1775, of the number of rations drawn by him on that day for this regiment—about two weeks after the battle. From this return it is shown that the regiment then consisted of 13 companies varying in number in each from 39 to 75, and making in all, at that date, 679. The loss of the regiment in the battle, in killed, wounded and missing, as reported by Col. Stark immediately after, was 60. If that number be added to the 679, the aggregate would be 739. This last number is probably as fair and just an estimate of the strength of Col. Stark's regiment immediately before the battle as can now be obtained; and this number added to the 486 in the regiment of Col. Reed, would make the aggregate of the two regiments, 1,225.



In estimating the number of men in these regiments present in the battle, some allowance should be made for such of them as were absent at the time or unfit for duty. If we deduct, for these causes, from the regiment of Col. Reed the excess over 400, and from that of Col. Stark all over 550, making the number so deducted 275 in all, or more than one fifth of the whole, it would leave for the two regiments 950 in all who may be presumed to have been present in the battle ; and this estimate is in substantial accord with that of Mr. Derby, in the paper before referred to, read by him before the New England Historical and Genealogical Society in 1877, though slightly in excess of that estimate. It is well understood, from all the histories of this battle, that the two New Hampshire regiments were in the fight from its beginning to its end ; that they were among the first in the charge of the enemy, and the last in the retreat ; and continued to hold their ground till Col. Prescott and the men under him were driven from the fort, and then withdrew in good order. It is also evident, from the same histories, that had Col. Prescott been supported by the Massachusetts regiments, then at Cambridge, as well and gallantly as by the New Hampshire regiments, he would not have been driven from the fort, nor the New Hampshire regiments retreated.

#### THE NEW HAMPSHIRE SOLDIERS IN COL. PRESCOTT'S REGIMENT.

The question in respect to the number of New Hampshire soldiers in Col. Prescott's regiment is readily and easily settled, and is attended with no further difficulty than simply counting their names on the original company rolls of that regiment still preserved in the office of the Massachusetts secretary of state, in Boston. Upon the original rolls are to be found the names of the officers and private soldiers of each of the companies, together with the names of the towns from which the men severally enlisted. It is shown by the original rolls of this regiment, that the fourth company of it, commanded by Capt. Reuben Dow, and consisting of 59 men, were all from the town of Hollis. Under the Massachusetts military establishment of the time, a full company consisted of 59 men, and the fourth was the only company of that regiment of which all the men were from the same town ; and it may be of some interest to suggest some of the reasons that led this company to join the Massachusetts regiment of Col. Prescott, rather than one of those

from New Hampshire. Col. Prescott at that time lived upon his farm, still the beautiful country residence of his descendants, situated on the north line of the town of Pepperell, adjoining Hollis, a large part of the farm being in fact in Hollis. Capt. Dow and the other commissioned officers of the company lived in the south part of Hollis, and were all the neighbors of Col. Prescott; and a very large part of the early settlers of Hollis were from Groton, Chelmsford, Billerica, and Concord, and other towns in Middlesex county, in which Col. Prescott's regiment was chiefly enlisted. It may also be added that Col. John Hale, one of the leading friends of the Revolution in Hollis, was a brother-in-law of Col. Prescott, the latter having married Abigail Hale, a sister of Col. Hale. Besides the company of Capt. Dow, it is shown by the same original rolls that there were four other Hollis men, in the company of Capt. Moors of Groton, in the same regiment.

It is also shown, by the same regimental rolls and documents, that there were 60 other New Hampshire men in this regiment, besides the company of Capt. Dow, of whom 12 were from Londonderry, 11 from Merrimack, 7 from Raby now Brookline, 4 each from Hollis and New Ipswich, and 22 from other New Hampshire towns, making in all 119. How many of these 119 went with Col. Prescott, and aided in the defence of the fort, it is impossible to estimate with much approach to certainty; but if we deduct 19 for the sick and absent, it would leave 100 in all who may have aided in the building and defence of the fort; and if this number be added to the supposed 950, of the regiments of Cols. Stark and Reed, it would make an aggregate of some more than 1,000 New Hampshire men in the battle. It is very certain that a large majority of the men from Hollis aided in the defence of the fort. It is shown by the returns that 8 of the men from Hollis were killed in the battle, and 6 others wounded. In addition to 3 commissioned officers and the 8 Hollis men killed in the battle, the returns made after the battle show that 28 others of that company lost in the fight more or less of their equipments, of whom 25 lost their knapsacks, 23 their tumplines, 8 their guns, 5 their short coats, 4 their hats, 2 their bayonets, and 1 his sword. How many of the company present in the fight lost no part of their equipments cannot now be known. Besides the Hollis men with Col. Prescott at the fort, there were eight others from

the same town in the battle, in the regiment of Col Reed, each of whom, as shown by the returns made afterwards, lost a portion of his equipments. (Prov. Papers, Vol 7, p. 591.)

In connection with the number of New Hampshire soldiers engaged in the battle, it is a question of but little less interest to learn, as nearly as may be, the proportion the New Hampshire men bore to the whole number of Americans actually present in it. In respect to some of the data upon which this question must be settled there is some conflict. But all accounts of the battle that I have read agree in the fact that, at the time of the first attack of the enemy, between two and three o'clock in the afternoon, the only American troops then on the battle ground were the New Hampshire regiments of Cols. Stark and Reed, and that part of the force which marched from Cambridge to Charlestown on the evening of the 16th of June, who did not leave Col. Prescott and the fort on the next day before the battle. This force of Col. Prescott, as stated by himself in a letter to John Adams, written in August, 1775, consisted in all of about 1,000, embracing 300 of his own regiment, with detachments from two other Massachusetts regiments, the one commanded by Col. Frye, and the other by Lt. Col. Brickett, and 200 Connecticut troops under Capt. Knowlton. (Frothingham, p. 395.) The official account of the battle by the Massachusetts committee of safety, dated July 28, 1775, Dr. Holmes in his *Annals of America*, and Bancroft in his *History of the War*, all agree with Col. Prescott in respect to the number of his men. Mr. Frothingham, however, in his *Siege of Boston*, tells us that, including the fatigue party, the force of Col. Prescott may be estimated at 1,200. But a very considerable part of the force of Col. Prescott, after the work on the fort was done, did not remain with him to aid in its defence. Late in the forenoon of the 17th, after the work on the fort was ended, it appears that Gen. Putnam was desirous of fortifying the hill in the rear of Charlestown Neck, *then* known as *Bunker Hill*, and for that purpose requested Col. Prescott to send a portion of his men to that hill, with the intrenching tools. To this request Col. Prescott at first strongly objected, telling Gen. Putnam that the men who should go with the tools would not return; but at last Col. Prescott gave his consent, upon the assurance from Gen. Putnam that every man of them should come back. The result

was that "*a large party*" went with Gen. Putnam with the tools to the hill, not one of whom, it is said, returned to the fort. Of what number this "*large party*" consisted is not stated, but it is to be inferred that it was numerous enough to carry off in their arms the intrenching tools which had been used by 1,000 men the night before. (Frothingham, p. 130.)

Col. Prescott, in his letter to President Adams, before referred to, says, "That having thrown up a small redoubt, we found it necessary to draw a line with the fort, northerly about twenty rods in length, under a warm fire from the enemy's artillery. That, about this time, Col. Frye and Lt.-Col. Brickett, being indisposed, could render me but little service, and most of the men under their command deserted the party." Col. Prescott further says, in the same letter, "That about two o'clock in the afternoon the enemy landed at a northeasterly point from the fort, and I ordered the train (of artillery), with the field pieces, to go and oppose them, and the Connecticut forces to support them. But the train marched in another direction, and I believe those sent to their support followed, I suppose, to Bunker Hill (Charlestown Neck)." \* \* \* He also tells Mr. Adams "That, about an hour after the enemy landed, they begun to march to the attack in three columns, and I commanded my Lt.-Colonel Robinson and Major Woods, each with a detachment, to flank the enemy, who, I have reason to think, behaved with prudence and courage, and I was now left with perhaps 150 men in the fort." (Frothingham, p. 395.)

In view of these facts, and upon a careful analysis of the evidence in the case, Mr. Derby, in the paper to which we have referred, comes to the conclusion that the whole force of Col. Prescott at the time the New Hampshire regiments came on the ground, could not have exceeded 600, of whom he says that 100 were from New Hampshire. (N. E. Hist. and Gen. Register, No. 121, p. 46.) Mr. Bancroft, in his account of the battle, says that less than 700 were in the redoubt, at the time of the attack. (Vol 7, 429.)

In the many published histories, as well as in the contemporaneous accounts of this battle, there is also considerable conflict in respect to the number of Americans actually engaged. In the official account of it, prepared and published by the Massachusetts



Committee of Safety, in the month of July next after, the number was stated at "about 1,500," which that committee say were the most at any time engaged on the American side. (Frothingham, p. 384.) Mr. Derby, upon a careful review of all the evidence, comes to the conclusion that the average number engaged at any one time was less than 1,500, and the historian Bancroft tells us (Vol. 7, p. 421), that the whole number of Americans on the ground at the time of the second landing, including all those that crossed the Charlestown causeway seasonably to take part in the fight, according to the most solemn assurances of the officers in the action, the testimony of eye-witnesses, and the carefully considered judgment of Washington, did not exceed 1,500.

In respect to this question, Mr. Derby, in his paper before referred to, further says, that if we count in the troops at the fort under Col. Prescott, and all those who arrived on the battle ground before the final retreat, the number engaged in the battle, according to the best evidence to which I have had access, was from New Hampshire 1,000, from Massachusetts 765, and from Connecticut 200, making a total of 1,965. Mr. Bancroft further tells us (Vol. 7, pp. 417, 418), that after the landing of the British small detachments from several Massachusetts regiments, amounting in all to between 300 and 400, left Cambridge for Charlestown, of whom not more than 150 in addition to the force under Prescott, Stark and Reed reached the battle ground before the retreat. But, upon this subject, Mr. Frothingham (p. 190) says that so conflicting are the authorities that the number of troops on each side cannot be accurately ascertained. That Gen. Putnam's estimate of the Americans was 2,200; that Col. Swett, in his history of the battle, says the number fluctuated, and making his estimate still higher; while that of Washington was but 1,500 engaged at any one time.

But whatever the real number from the other colonies may have been, we find no evidence inconsistent with the fact that at least 1,000 New Hampshire men took part in the fight from its beginning to its end, and all accounts also agree that the New Hampshire men maintained their ground with unwavering firmness and intrepidity, and by their gallantry and good conduct displayed in that battle, established a reputation for fidelity and heroism that continued unsullied from that time to the end of the war. Ban-

croft, in his history, says of them, that the little handful of brave men in the fort would have been effectually cut off had it not been for the unfailing courage of the provincials at the rail fence and on the banks of the Mystic. These men, the New Hampshire regiments, had repulsed the enemy twice, and held them in check till the main body under Prescott had left the hill. Not till then did the New Hampshire soldiers quit their station, which they had so nobly defended. (Vol 7, p. 430.) And the historian Frothingham, who, like Messrs. Bancroft and Derby, was a Massachusetts man, in speaking of the New Hampshire regiments on the banks of the Mystic and along the rail fence, says of them that they maintained their ground with great firmness and intrepidity, and successfully resisted every attempt to turn their flank. That this line was nobly defended, and it saved the main body, who were retreating in disorder from the redoubt, from being cut off by the enemy. That when it was perceived at the rail fence that the force under Col. Prescott had left the hill, these brave men gave ground, but with more order and regularity than could have been expected of troops who had been no longer under discipline. (Frothingham, 151.)

In view of all the evidence bearing upon these questions, there is no room or reason to doubt that the New Hampshire regiments did their full share in earning and gaining a complete and triumphant victory, instead of being compelled to follow in the retreat. Had Col. Prescott, and the brave men under him in the fort, been supported as they might and should have been by the Massachusetts regiments, at Cambridge, under Gen. Ward—instead of defeat and retreat, the American army would have been crowned with the laurels of victory, and the whole force of the enemy, not killed on the battle-field, would have been made prisoners of war or driven back to Boston.

[Some additional facts relative to New Hampshire men who were engaged in the battle of Bunker Hill have been printed since the foregoing was compiled. See State Papers, New Hampshire, vol. 14, pp. 31 to 46, and vol. 15, pp. 739 to 752.

I. W. H.]

## ADJOURNED ANNUAL MEETING.

CONCORD, July 16, 1884.

The adjourned sixty-second annual meeting of the society was held this day, at the Library room, in Concord, at 11 o'clock A. M., the president in the chair.

The records of the annual meeting held June 11, 1884, were read and approved.

Mr. S. Dana, from the committee appointed at the last meeting to consider the subject of amending the constitution and by-laws of the society, reported the following amendment of the constitution to be acted upon at the next annual meeting :

In section 6th, strike out the word "and," after the words, "Corresponding Secretary," and insert after the word "Librarian," the words, "and a Necrologist."

The report was accepted, and the proposed amendment was laid upon the table.

In accordance with a resolution adopted at the last meeting, Dr. Irving A. Watson, of Concord, was chosen Necrologist for the ensuing year.

Under a resolution adopted at the last meeting, Messrs. Samuel C. Eastman, Isaac K. Gage, and Isaac W. Hammond were appointed a committee to expend the sum of \$500, appropriated by the state for a calendar of papers in the public record offices in England.

Mr. Woodbridge Odlin was chosen auditor for the ensuing year.

After a verbal report from Messrs. J. B. Walker and E. H. Spalding, of the committee on the increase of the librarian's fund, the following resolution, offered by Hon. J. E. Sargent, was adopted :

*Resolved*, That the matter of increasing the librarian's fund be recommitted to the committee, with instructions to meet at some subsequent meeting of the society.

On motion of Mr. J. B. Walker :

*Resolved*, That the committee on new members, appointed at the last meeting, take measures to increase the resident member-

ship of the society, and that they report at the next meeting of the society.

The society then adjourned to meet at the Town Hall, in Exeter, on Thursday, September 25, 1884, at 11 o'clock A. M.

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## ADJOURNED ANNUAL MEETING.

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EXETER, September 25, 1884.

The adjourned sixty-second annual meeting of the society was held this day, at the Town Hall, in Exeter, at 11 o'clock A. M.

In the absence of the president and recording secretary, John T. Perry was chosen president *pro tem.*, and John J. Bell recording secretary *pro tem.*

The society then adjourned to meet at the Town Hall, in Exeter, on Wednesday, October 1st, 1884, at 11 o'clock A. M.

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## ADJOURNED ANNUAL MEETING.

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EXETER, October 1, 1884.

The adjourned sixty-second annual meeting of the society was held, this day, at the Town Hall, in Exeter, at 11 o'clock A. M., the president in the chair.

The records of the last two meetings were read and approved.

A communication was received from Prof. E. T. Quimby, of the Coast and Geodetic Survey, respecting the mountain in Carroll county, called "Kearsarge," "Kiarsarge," or "Pequawket," and requesting action of the society in fixing the name.

A committee of three was ordered to be appointed, by the chair, to report upon the aforesaid request.

Mr. J. B. Walker, from the committee on the increase of the librarian's fund, made a verbal report, which was accepted.

Mr. John N. McClintock made a statement respecting "The Granite Monthly," and requested its recognition by the society as



a medium of communication with the public ; and, on his motion, the subject was referred to the standing committee.

At this point the president suggested a temporary adjournment for the purpose of visiting certain historical localities, in accordance with the programme of the annual field day, appointed to be held this day, in Exeter.

Adjourned till 3 o'clock P. M.

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### AFTERNOON SESSION.

The society met according to adjournment, the president in the chair.

The chairman announced Messrs. J. B. Walker of Concord, Joseph A. Stickney of Great Falls, and Jeremiah Smith of Dover, to consider the request of the U. S. Coast Survey as to the name of the mountain in Carroll county, called "Kearsarge," "Kiar-sarge," or "Pequawket."

Mr. Isaac W. Hammond, from the committee on new members, reported the following named persons, who, upon the acceptance of the report, were unanimously elected, by ballot, members of the society :

#### RESIDENT MEMBERS.

Mrs. Elizabeth L. Walker, George Cook, M. D., Augustus D. Harris of Concord ; Col. Daniel Hall, Hon. Joshua G. Hall, George S. Frost, Albert O. Mathes, James H. Wheeler, M. D., James W. Bartlett, John T. Welch, Moses C. Lathrop, M. D., William S. Stevens, Charles H. Sawyer, James E. Lothrop, M. D., Thomas J. W. Pray, M. D., Dover ; William J. Copeland, Great Falls ; Charles S. Cartland, Lee ; John C. Goodenough, Littleton ; Charles Wilder, Peterboro'.

#### HONORARY MEMBER.

Hon. John Wentworth, Chicago, Ill.

On motion of Mr. J. E. Pecker, it was ordered that Rev. S. C. Beane, of Concord, be added to the committee on the librarian's fund.

On motion of Mr. J. J. Bell, the librarian was authorized to keep the library open two days in the week.

Mr. J. B. Walker presented the following resolution, which was adopted :

*Resolved*, That our thanks are due and are hereby tendered to such of the citizens of Exeter as have this day kindly exhibited to us so many interesting memorials of the history of their grand old town, whose record, for nearly two centuries and a half, has done great honor to the state, and whose present importance, as an educational centre, deservedly gives to it distinguished fame throughout the republic.

On motion of Mr. J. E. Pecker, the matter of providing any additional necessary conveniences in connection with the society's building in Concord, was referred to the standing committee.

On motion of the same gentleman,

*Resolved*, That the recording secretary be directed to procure blanks containing biographical questions, and a form for acceptance, to be sent to all newly elected members ; and also, for the purpose of securing personal information, to all present members, and, as far as practicable, to the relatives or friends of deceased members ; and that the blanks be prepared with a suitable margin, so that, after being filled out, they may be bound in manuscript form, and deposited with the records of the society.

The society then adjourned to meet again at Concord, on the first Wednesday of January, 1885.

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## FIELD DAY.

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WEDNESDAY, October 1, 1884.

The third field day of the society was held in connection with the adjourned annual meeting, at Exeter, October 1, 1884.

After the temporary adjournment of the business meeting, in the forenoon, the members of the society, with their friends, were shown many localities of historic interest, among which were : The garrison house, more than 200 years old, called the "Clifford house," built by Councillor John Gilman, and occupied by his descendants for several generations ; the brick powder house, built about 1760 ; the residence of Gov. John Taylor Gilman, erected some time between 1721 and 1730, where was transacted,

by the Committee of Safety, much official business of the state during the Revolution, and in one of whose rooms was the Treasury; the site of John Wheelwright's church, the first in Exeter, erected about 1638; the spot where George Whitefield preached his last sermon, in 1770; and the "Colcord House," about 200 years old, originally boarded with two inch plank, in defence against the Indians.

Other localities of interest were pointed out, as the party rode through the town, under the courteous and intelligent guidance of the president of the society.

After dinner at Gorham Hall, and the business meeting of the society in the afternoon, visits to Phillips Exeter Academy and other places closed a field day quite the peer of its two predecessors in pleasant and useful enjoyment.

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## ADJOURNED ANNUAL MEETING.

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CONCORD, Wednesday, June 7, 1885.

The adjourned sixty-second annual meeting met this day, being the first Wednesday of January, 1885, at 11 o'clock A. M., at the society's room, in Concord, the president in the chair.

The records of the last adjourned meeting and field day were read and approved.

Mr. Walker, presented the following report of a committee :

The committee, to whom was referred the communication of Prof. E. T. Quimby, relative to the name of the mountain in Carroll county, generally known as "Kiarsarge," or "Kearsarge," respectfully report :

That a committee was appointed by this society on the 13th day of June A. D. 1877, to investigate matters akin to, and embracing this subject, and that, subsequently, exhaustive reports were made by the majority and minority of said committee, which reports now lie upon the table for further consideration and disposition by said society; that inasmuch as these, covering the ground referred to us, will soon appear in the society's printed volume of Transactions; and, inasmuch as the aforesaid committee has not been discharged, we have thought best to make no further

report, but recommend that final action be taken by the society upon the aforesaid reports at the earliest practicable day.

Respectfully submitted,

J. B. WALKER,  
J. A. STICKNEY,  
JEREMIAH SMITH,  
*Committee.*

CONCORD, January 2, 1885.

The report was accepted and adopted.

On motion of Mr. S. C. Eastman, Charles Levi Woodbury, of Boston, was appointed a member of the committee on the name "Kearsarge," originally selected June 13, 1877, in place of Capt. G. V. Fox, deceased.

On motion of Mr. J. B. Walker,

*Resolved*, That Maj. Henry McFarland and Charles Levi Woodbury be hereby invited to communicate in writing to this society any facts within their knowledge, and for the truth of which they can vouch, relating to the naming of the United States corvette Kearsarge, the same to be placed on file with the society.

Mr. Isaac W. Hammond, from the committee on new members, reported the following named persons, who, upon the acceptance of the report, were unanimously elected, by ballot, members of the society :

#### RESIDENT MEMBERS.

Joseph B. Upham, Jr., James Rindge Stanwood, Calvin Page, Portsmouth ; William S. Briggs, Keene ; Hon. Henry Abbott, Winchester ; Hon. George B. Chandler, Manchester ; Charles E. Tilton, Tilton ; Mrs. Elizabeth Schütz, Concord.

#### HONORARY MEMBER.

Edmund Clarence Stedman, New York City.

Mr. Amos Hadley presented a photograph album of the Fourth New Hampshire Regiment, in the recent war, the gift of Lieut. Harvey F. Wiggin, of Boston, and offered the following resolution, which was adopted :

*Resolved*, That the thanks of the N. H. Historical Society are hereby tendered to Lieut. Harry F. Wiggin, of Boston, for the photograph album of the officers of the Fourth N. H. Regiment of Volunteers in the late war for the Union, presented by him ; and that the same shall be safely kept by the society.

The society then adjourned, *sine die*.



## ANNUAL MEETING.

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CONCORD, Wednesday June 10, 1885.

The sixty-third annual meeting was held this day, at the society's rooms, at 11 o'clock A. M., the president in the chair.

In the absence of the recording secretary, Mr. Isaac K. Gage was chosen secretary *pro tempore*.

The report of the committee on the increase of the librarian's fund was accepted, and the accompanying request to be discharged from further service was granted.

The report of the librarian, Mr. S. C. Eastman, was presented, read, and accepted. It stated that the library had been open, during a larger part of the year, on Tuesdays and Thursdays, at an expense of \$61.25. The additions had been 131 volumes and 581 pamphlets. Of these 2 volumes and 263 pamphlets had been purchased at a cost of \$6, and the remainder had been received by gift and exchange.

The report of the treasurer, Mr. S. S. Kimball, was presented, read, and accepted. It showed: debits, \$8,746.48; credits, \$676.29; balance, \$8,070.19. Increase the past year, \$172.06.

The matter of procuring a calendar of historical papers in the public record office of England was recommitted to the committee having it in charge.

On motion of Prof. E. T. Quimby, the matter pertaining to the name "Kearsarge" was left as reported by the committee at the annual meeting in 1879, and the said report was adopted.

Mr. Isaac W. Hammond presented, in behalf of George S. Burton, two Revolutionary diaries kept by Jonathan Burton, Jr., of Wilton, which were accepted, with the thanks of the society.

The committee on new members reported by Mr. George E. Jenks the following persons, who were then unanimously elected members of the society:

## RESIDENT MEMBERS.

Cora K. Bell Exeter; Sumner Wallace, Rochester; Allen J. Hackett, Belmont; Eugene P. Nute, Farmington; Theodore W. Woodman, Dover; Anson S. Marshall, Edward N. Pearson, Mary H. Pierce, Concord; Orrin C. Moore, Nashua; Frank D. Currier,

Canaan ; Thomas P. Cheney, Ashland ; Mason W. Tappan, Bradford ; A. S. Twitchell, Gorham ; William E. Barrett, Claremont.

CORRESPONDING MEMBER.

Gen. Charles W. Darling, Oneida, N. Y.

Mr. J. B. Walker, from the committee to nominate officers for the ensuing year reported, and the gentlemen nominated in the report were unanimously elected by ballot, as follows :

*President*—Charles H. Bell ; *Vice-Presidents*—Jonathan E. Sargent, John M. Shirley ; *Corresponding Secretary*—John J. Bell ; *Recording Secretary*, Amos Hadley ; *Treasurer*, William P. Fiske ; *Librarian*, Samuel C. Eastman ; *Necrologist*, Irving A. Watson ; *Publishing Committee*, Charles H. Bell, Amos Hadley, Samuel C. Eastman ; *Standing Committee*, Joseph B. Walker, Sylvester Dana, Joseph C. A. Hill ; *Library Committee*, Amos Hadley, Edward H. Spalding, J. E. Pecker.

Mr. Woodbridge Odlin was chosen auditor.

It was ordered that the assessment on each resident member for the ensuing year be three dollars.

It was voted that the next annual field day of the society be held in Concord, at a time to be designated by the president.

The society then adjourned to meet at the time and place of the field day.

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## ADJOURNED ANNUAL MEETING.

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CONCORD, Tuesday, October 6, 1885.

The adjourned sixty-third annual meeting was held this day, at the society's rooms, at 11 o'clock A. M., the president in the chair.

The society adjourned to meet at half past one o'clock in the afternoon, after the field-day exercises.

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## AFTERNOON SESSION.

The society met according to adjournment, the president in the chair.

The records of the two previous meetings of the society were read and approved.

The recording secretary reported that the following persons had accepted membership since the annual meeting, June 11, 1884 :

RESIDENT MEMBERS.

Col. E. H. Gilman, Exeter ; Hon. W. S. Ladd, Lancaster ; Rufus P. Staniels, Rev. Sullivan Holman, Luther S. Morrill, Mrs. Elizabeth P. Schütz, Anson S. Marshall, Charles R. Walker, M. D., Concord ; John Hatch, Greenland ; William M. Barnard, Franklin ; John C. Goodenough, Littleton ; William J. Copeland, Great Falls ; Hon. Henry Abbott, Winchester ; William S. Briggs, Keene ; Hon. George B. Chandler, Manchester ; Charles S. Cartland, Lee ; Joseph B. Upham, Portsmouth ; Col. Thomas P. Cheney, Ashland ; A. S. Twitchell, Gorham ; James R. Jackson, Littleton ; Thomas J. W. Pray, M. D., John T. Welch, James W. Bartlett, Charles H. Sawyer, Col. Daniel Hall, M. C. Lathrop, M. D., Albert O. Mathes, Dover.

HONORARY MEMBERS.

N. J. Sawyer, M. D., Frankfort, Ky. ; Nathaniel U. Walker, Boston ; W. T. Holmes, Casselton, Dakota ; C. R. Buddy, Denton, Texas ; Rev. Israel Ward Andrews, D. D., Marietta, Ohio ; W. H. Hotchkiss, New Haven, Ct. ; Edmund Clarence Stedman, New York ; Duc de Broglie, Paris, France.

CORRESPONDING MEMBERS.

Rev. John LeBosquet, Southville, Mass. ; Gen. Charles W. Darling, Oneida, N. Y.

An amendment to the constitution of the society, proposed July 16, 1884, providing for the election, annually, of a necrologist, was taken from the table and adopted.

The following persons, nominated by the committee on new members, were unanimously elected members of the society :

RESIDENT MEMBERS.

Lyman D. Stevens, John H. Pearson, E. S. Nutter, Henry Robinson, John C. Ordway, John A. White, Mrs. Caroline B. Bartlett, Concord ; Stilson Hutchins, Laconia ; William H. Mitchell, Littleton.

## CORRESPONDING MEMBERS.

Col. Fred. C. Pierce, Rockford, Ill. ; Horatio Hill, Chicago, Ill. ;  
A. A. Folsom, Boston.

Maj. Henry McFarland's reply as to the naming of the U. S. corvette Kearsarge, with accompanying pamphlets, was presented to the society.

Mr. Hammond presented, in behalf of Prof. J. H. Morey, Part I, of Vol. I, of Memoirs of the Science Department of the University of Tokio, Japan: By Edward S. Morse — which was accepted with the thanks of the society.

On motion of Mr. J. T. Perry, the thanks of the society were tendered to the members of the society resident in Concord and vicinity for their kindly and well directed efforts to entertain their guests on the occasion of this field day.

Adjourned *sine die*.

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FIELD-DAY.

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CONCORD, Tuesday, October 6, 1885.

The fourth field-day was held this day, in Concord, in connection with the adjourned sixty-third annual meeting of the society.

The society having adjourned to give opportunity to carry out the field-day programme, the members and their friends, numbering about forty, under the guidance of Superintendent Humphrey, took a convenient car upon the horse railroad, for Penacook. Having arrived at Penacook, the visitors were provided with carriages, under direction of Hon. C. H. Amsden, Isaac K. Gage, Esq., and others, and were taken to the island where the Dustin monument stands. A rain beginning to fall, the stay there was brief. The party, returning by the same conveyance, partook of a collation served in the society's rooms. After this, a part of the members repaired to the library room, to attend the adjourned business meeting, while others of the party took the opportunity to inspect the historical paintings at the residence of Joseph B. Walker, Esq. The heavy rain prevented the further carrying out of the field-day programme.



## ANNUAL MEETING.

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CONCORD, Wednesday, June 9, 1886.

The sixty-fourth annual meeting of the society was held, this day, in its library room, at 11 o'clock A. M., the president in the chair.

The records of the last adjourned annual meeting and the fourth field-day were read and approved.

The recording secretary reported that the following persons, elected October 6, 1885, had accepted membership :

## RESIDENT MEMBERS.

Lyman D. Stevens, John H. Pearson, Eliphalet S. Nutter, Henry Robinson, John C. Ordway, Concord ; William H. Mitchell, Littleton.

## CORRESPONDING MEMBERS.

Col. Fred. C. Pierce, Rockford, Ill., Horatio Hill, Chicago, Ill. ; A. A. Folsom, Boston, Mass.

Also, Mrs. Cora K. Bell, elected June 10, 1885, a resident member, had accepted.

The treasurer, William P. Fiske, presented his report, which was accepted. It showed debits, \$8,952.58 ; credits, \$213.34 ; balance, \$8,739.24 ; permanent funds, \$3,899.82 ; publication fund, \$600 ; fund to procure a calendar of papers in the public records of London, \$500 ; current funds, \$3,739.42 ; total, \$8,739.24 ;—increase the past year, \$669.05.

The librarian, S. C. Eastman, presented his report, which was accepted. It stated that the library had been open four days in each week, during the session of the legislature, and since then on Tuesday and Thursday forenoons, at a cost of \$125. The total number of volumes in the library, aside from duplicates, was stated to be 10,385. The additions during the year were 85 volumes and 315 pamphlets, of which 75 volumes and 299 pamphlets were obtained by gift, and the remainder by exchange.

Mr. J. B. Walker from the standing committee reported that seven volumes of manuscript letters of Dr. Farmer, with other valuable papers, had been procured for the society.

The gift was accepted with thanks to the giver, Mrs Catherine K. Steele, of Amherst.

Rev. Sullivan Holman presented the Minutes of the N. H. Methodist Conference, from 1839 to 1884, bound in two volumes, which gift was accepted with thanks.

A collection of biographical sketches written by Ex-Governor William Plumer, and presented by William L. Plumer, of Epping, in behalf of the grandchildren of the writer,—being the children of his sons, William, Samuel, and George W.,—was accepted, with the thanks of the society.

The aforesaid papers were ordered to be bound and indexed by Mr. John C. Ordway; the index to be printed in the Transactions of the society.

The president presented a communication from Ex-Governor James A. Weston, covering correspondence respecting a Memorial to Captain John Mason, set up in Portsmouth, England.

The papers were accepted with thanks, and ordered to be preserved in the archives of the society.

In answer to a circular from the N. E. Historic-Genealogical Society, asking for an expression of the society concerning the plan of B. F. Stevens, of London, to publish the manuscripts in the archives of Europe, relating to the American colonies, the following resolution, offered by Mr. Samuel C. Eastman, was adopted:

*Resolved*, That the New Hampshire Historical Society approves of the plan of B. F. Stevens, of London, for printing historical papers relating to the American colonies, in the archives of Europe, and recommend that the work be undertaken by the government of the United States.

A communication from Lucinda S. Hall, M. D., of Concord, was presented by the secretary, accompanying the gift of a snuff box owned and used by Philip Carrigain, also a map of Concord in 1746, executed by him.

The gift was accepted with thanks.

The president gave notice of an invitation to the society to attend the exercises in dedication of the Webster statue in Concord, on the 17th of June instant.

Mr. J. B. Walker offered the following resolution, which was adopted:

*Resolved*, That the sum of one hundred and fifty dollars be hereby appropriated for the examination, arrangement, binding

and indexing—so far as this sum will allow—of the manuscripts in the vaults of the society, and that a committee, consisting of the president, librarian, and Isaac W. Hammond, be hereby appointed to carry into effect the provisions of this resolution.

The committee to nominate new officers reported, by Mr. Sylvester Dana, as follows :

*For President*, Charles H. Bell ; *Vice-Presidents*, Jonathan E. Sargent, John M. Shirley ; *Corresponding Secretary*, John J. Bell ; *Recording Secretary*, Amos Hadley ; *Treasurer*, William P. Fiske ; *Librarian*, Samuel C. Eastman ; *Necrologist*, Irving A. Watson ; *Publishing Committee*, Charles H. Bell, Amos Hadley, Samuel C. Eastman ; *Standing Committee*, Joseph B. Walker, Sylvester Dana, J. C. A. Hill ; *Library Committee*, Amos Hadley, Edward H. Spalding, J. E. Pecker ; *Auditor*, Woodbridge Odlin.

The report having been accepted and adopted, the gentlemen therein designated were elected officers for the ensuing year.

The annual address was delivered by Amos Hadley, the subject being "New Hampshire in the Historic Van."

Thanks were tendered the speaker, and a copy of the address was requested for deposit in the archives of the society.

Messrs. J. B. Walker, G. L. Balcom, and I. A. Watson were appointed a committee to select an orator for next year, and to make arrangements for the next field-day.

It was ordered that the assessment on each resident member of the society for the ensuing year be three dollars.

A recess was then taken till 2 o'clock P. M.

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#### AFTERNOON SESSION.

The society re-assembled at 2 o'clock P. M., the president in the chair.

The committee on new members, by Dr. I. A. Watson, reported the following named persons, who, after the acceptance of the report, were unanimously elected, by ballot, members of the society :

#### RESIDENT MEMBERS.

Edward Aiken, M. D., Amherst ; Walter D. Scott, George N. Cross, Exeter.

## CORRESPONDING MEMBER.

Rev. Ephraim O. Jameson, Millis, Mass.

## HONORARY MEMBER.

Hon. William A. Richardson, Washington, D. C.

On motion of Mr. J. J. Bell, it was resolved that when this meeting adjourn to-day, it stand adjourned till the first Tuesday of September next at 11 o'clock A. M.

On motion of Mr. S. C. Eastman, Charlestown was selected as the place of holding the next field day ; the time to be designated by the president of the society.

Mr. J. E. Pecker was added to the committee on oration and field-day.

An ineffectual motion was made that the Plumer papers be put under the same restrictions as the Webster papers.

On motion of Mr. J. E. Pecker it was resolved that the library be open Tuesdays and Thursdays from 11 A. M. to 1 P. M., and from 2 P. M. to 4 P. M.

The meeting then adjourned.

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ADJOURNED ANNUAL MEETING.

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CONCORD, Tuesday, September 7, 1886.

The adjourned sixty-fourth annual meeting of the N. H. Historical Society was held, this day, at its library room, at 11 o'clock A. M.

In the absence of the president, Mr. Joseph B. Walker was chosen president *pro tempore*.

On motion by Mr. Isaac K. Gage, the committee having in charge the re-arrangement of manuscripts in the society's safe were authorized to return to the office of the secretary of state, any papers therein found belonging to the state.

Gen. George T. Cruft, of Bethlehem, was elected a resident member.

Adjourned.



## ANNUAL MEETING.

CONCORD, Wednesday, June 8, 1887.

The sixty-fifth annual meeting of the N. H. Historical Society was held, this day, in the society's rooms, at 11 o'clock A. M., the president in the chair.

The records of the last meetings were read and approved.

The report of the recording secretary was made and accepted. By this report it appeared that the following persons had accepted membership during the past year :

## RESIDENT MEMBERS.

Gen. George T. Craft, Bethlehem ; Edward Aiken, M. D., Amherst ; George N. Cross, Exeter.

## CORRESPONDING MEMBER.

Rev. Ephraim O. Jameson, Millis, Mass.

The corresponding secretary's report was adopted.

The treasurer's report was read and accepted. The report showed—receipts and credits, \$9,615.29 ; expenditures or debits, \$9,420.11 ; increase, the past year, \$690.87.

The librarian's report was read and accepted. It stated that the library had been open on Tuesdays and Thursdays, the past year, and had been used by many who were investigating historical subjects. There had been 151 volumes and 317 pamphlets added during the year—all of which were gifts or exchanges.

The gift of the "Concord Literary Institution Album," by Gen. Harrison C. Hobart, of Milwaukee, Wis., was accepted, with thanks to the donor.

The special committee to examine and rearrange the papers in the society's safe reported progress.

Mr. J. B. Walker, in a verbal report from the standing committee, stated that minor repairs had been made upon the society's building, and that the Plumer papers had been bound. The report was accompanied by a paper prepared by Dr. Edward Aiken on "Curiosities connected with Names changed by the the Legislature." The paper was ordered to be printed in the Transactions of the society.

The special committee on records in England reported by Mr. S. C. Eastman, that one instalment of papers, relating mainly to the boundary question, had been sent by Mr. B. F. Stevens, of London, but that no money from the appropriation had been spent.

The president expressed his determination to decline reëlection. He recapitulated some of the doings of the society, and also gave a list of the most important papers presented thereto, during the nineteen years he had occupied the chair.

Mr. S. C. Eastman offered the Revolutionary papers of the late Jonathan Chase, presented by the town of Cornish, and, on his motion, they were accepted upon the conditions prescribed by the said town.

The committee to nominate officers reported, by Mr. J. B. Walker, as follows :

*For President*, J. Everett Sargent ; *Vice-Presidents*, Samuel C. Eastman, George L. Balcom ; *Corresponding Secretary*, John J. Bell ; *Recording Secretary*, Amos Hadley ; *Treasurer*, William P. Fiske ; *Librarian*, Isaac W. Hammond ; *Necrologist*, Irving A. Watson ; *Auditor*, Woodbridge Odlin ; *Standing Committee*, Joseph B. Walker, J. C. A. Hill, Isaac K. Gage ; *Publishing Committee*, Charles H. Bell, Isaac W. Hammond, A. S. Batchellor ; *Library Committee*, J. E. Pecker, E. H. Spalding, John C. Ordway.

The report was accepted and adopted, and the gentlemen therein nominated were elected as officers for the ensuing year.

Mr. Bell, on retiring from the chair, introduced his successor, Hon. J. Everett Sargent.

The committee on new members reported, by Mr. Hammond, the following named persons, who, after the acceptance of the report, were unanimously elected, by ballot, members of the society :

#### RESIDENT MEMBERS.

Henry M. Baker, Bow ; Mortier L. Morrison, Peterboro' ; George E. Hodgdon, Portsmouth ; Charles L. Farr, Littleton ; Howard L. Porter, Mrs. Alice Rosalie Porter, Edson C. Eastman, Rev. Charles L. Tappan, Concord.

## CORRESPONDING MEMBERS.

Gen. Harrison C. Hobart, Milwaukee, Wisconsin ; Major G. A. Raikes, London, England.

Mr. Woodbridge Odlin offered the following resolution, which was seconded by Mr. Joseph B. Walker, and unanimously adopted by the Society :

*Resolved*, That the thanks of the society be presented to Hon. Charles H. Bell for the able, faithful, and impartial manner in which he has performed the duties of the office of president for nineteen years.

Four letters of Philip Carrigain, presented by Miss Jennie L. Bouton, were accepted with thanks to the donor.

Mr. Pecker, from the committee on field day, reported in favor of holding the same at Charlestown, with the suggestion that it be held in the course of the last full week in June. After discussion, the time was appointed for September, on such day as the president shall designate.

The manuscript sermons by the late Rev. Dr. Bouton, presented by his daughter, Miss Jennie L. Bouton, were accepted with thanks.

The question of placing the library of the society in juxtaposition with that of the city and that of the State, was, after discussion, referred to a committee consisting of Messrs. George E. Jenks, Sylvester Dana, S. C. Eastman, Joseph B. Walker, Isaac W. Hammond, and John B. Clarke.

Adjourned till 2 o'clock P. M.

## AFTERNOON SESSION.

The society met at 2 o'clock P. M., the president in the chair.

Mr. Sylvester Dana, from the committee on new members, made an additional report nominating the following named persons, who, after the acceptance of the report, were, by ballot, unanimously elected members of the society :

## RESIDENT MEMBERS.

John C. Linehan, Penacook ; Rev. Cephas B. Crane, D. D., Concord ; Chester Pike, Cornish.

## CORRESPONDING MEMBER.

A. A. Folsom, Boston, Mass.

An assessment of three dollars was ordered on each resident member for the current year.

Mr. Joseph B. Walker was appointed a member of the committee to examine and rearrange papers in the society's safe, to fill the vacancy occasioned by the election of Mr. Hammond as librarian.

Messrs. C. H. Bell, Samuel C. Eastman, and Amos Hadley were appointed a committee to select an orator for next year.

The annual meeting was then adjourned to a time hereafter to be designated by the president of the society.

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## SOME CURIOSITIES OF NAME CHANGING.

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BY EDWARD AIKEN, M. D.

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Previous to 1872 names were changed in New Hampshire by act of legislature. Under the province but a single act is on record whereby "three brothers, Rogers, are authorized to add Rindge to their Christian names." Since then about two thousand names, three-fourths of them surnames, have been changed.

*Allcock*—fifty-six changed to nine different surnames—Allcott, Appleton, Austin, Cooledge, Hubbard, Otis, Phipps, Taylor and Vitty. Other similar names were Babcock, Peacock (of which latter one changed to Sawyer has since been nicknamed Cock-Sawyer), Woodcock, as well as Wilcox and Coxeter!

*Hogg*—sixty-seven, at least ("and family" sometimes used), taking fourteen names. Thomas, who adopted Moore, was thereafter called "*More-Hog!*" Joseph and others take the surname of Wilder, by an act which a waggish indexer calls "an act to make Hogs Wilder!" Mary and others, called Shepherd, like the eminent Ettrick poet, Thomas, preferred a flock to a drove, a fold to a sty! Changing the names of Charles, Robert and others to Church, might be called the Churching of Hogs! Other surnames adopted by the Hogs: Bartlett, Bentley, Carpenter, Dana, Huntley, Johnson, Prentiss, Raymond, Woodbury, and Tennant. Of one who took the last name, a cotemporary wag rhymed:

"Hogg by name, and hog by nature,  
But Tennant made by legislature.



*Leathers*—one hundred and twenty-five changed, taking thirty different surnames: Adams, Atherton, Banks, Bentley, Chase, Cheney, Clark, Crosby, Currier, Dinsmore, Emery, Freeman, Giles, Gilman, Gray, Hale, Langley, Laurens, Leighton, Meeds, Orange, Palmer, Prescott, Rand, Shaw, Stacy, Twombly, Tyler, Walker, Wilson.

Other curiosities: Telophehad Cooledge to Oscar Cooledge; Betmalin Fegar, to John Putnam, Joseph Wiser, to George Wise; Elijah Graves, to Elijah Gay; Elphameo Musealeno Libby, to Albert L. Clifford.

In the classic line: Portia] Ocenas Garfield, to Lizzie Garfield Newell. But Samuel Blaisdell, to Augustine Lupus, and Seth Forbes, to Sethus B. Forbes.

A curious pair, more curious if of opposite sexes: Comfort Goings and Relief Cummings!

A bitter case: Simeon Wormwood, changed to George B. Watson; and still more bitter: Timothy Worthley, Jr., changed to the phrenological one of Spurzheim Gall in 1850, changed back again in 1852!

A chapter of blunders: At the June session, 1842, an act was passed changing the name of Nathaniel *Prince*, Jr., to Nathaniel Whittaker [two t's] Prince. At the fall session of the same year, changing the name of Nathaniel *Prince*, Jr., to Nathaniel Whitaker [one t] Prince, and finally at the next session, in 1843, Nathaniel *Prime*, Jr. (for that was his true name) had his name changed to Nathaniel Whitaker *Prime*.

Other objectionable surnames: Blumpee, Bodge, Briar, Mugford, Puffer, Trickey, Tupper, Wakeurn, Wran.

To illustrate the power of names, an historian of the N. H. Medical Society asserts that many doctors, Smiths, Jones, etc., had their surnames changed to Kittredge, as a sure passport to professional success, and that the change was made by act of our legislature; but the proof of the assertion does not materialize. The name Kittredge is conspicuously missed. We have not got it on our list.

EDWARD AIKEN.

## ADJOURNED ANNUAL MEETING.

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CONCORD, Friday, September 30, 1887.

The adjourned sixty-fifth annual meeting of the N. H. Historical Society was, upon call of the president, held, this day, at the society's rooms, at 3 o'clock P. M., the president in the chair.

The secretary being necessarily absent, Mr. Isaac W. Hammond was chosen recording secretary *pro tempore*.

The following resolution, offered by Mr. J. B. Walker, was adopted :

*Resolved*, That the librarian be hereby directed not to loan any of the manuscripts in the library, whether the property of the society, or of other persons, stored here for safe keeping ; but that the same may be examined and copied in the library, under the direction of the librarian, unless otherwise ordered by the society.

The following resolution, presented by Mr. I. W. Hammond, was adopted :

*Resolved*, That Isaac K. Gage, Moses Humphrey, and Benjamin A. Kimball be appointed a committee to arrange for a dinner at Bonney's Hotel, in Penacook, on some day in October next, and issue invitations to members of the society and such others as may be deemed proper.

On recommendation of the committee on new members, the following persons were elected members of the society :

## RESIDENT MEMBERS.

John M. Mitchell, Mrs. Frances C. Stevens, Myron J. Pratt, Arthur W. Silsby, Concord ; Rev. James E. Odlin, Goffstown ; Francis C. Faulkner, Keene ; Ezra S. Stearns, Rindge ; Ossian Ray, Chester B. Jordan, Lancaster.

## HONORARY MEMBER.

Hon. Mellen Chamberlain, Boston.

The following resolution was adopted :

*Resolved*, That John J. Bell, J. Everett Sargent and J. E. Pecker are appointed a committee to endeavor to procure an appropriation from the state for the purpose of purchasing town histories and for other necessary expenses of the society.

The matter of compensation of the librarian was referred to the standing committee,—they to report at the next meeting.

The meeting then adjourned till such time in October, 1887, and to such place as the committee to make arrangements for a society dinner should designate.

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## ADJOURNED ANNUAL MEETING.

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THURSDAY, October 27, 1887.

The second adjourned sixty-fifth annual meeting of the N. H. Historical Society was held at Penacook, on Thursday, October 27, in accordance with the arrangements made by the committee for that purpose, at the last meeting; the special occasion being the celebration of the one hundredth anniversary of the opening of the Penacook House as a public hotel.

At six o'clock P. M. the members of the society, with invited guests, sat down to an excellent banquet spread in that house by the proprietor, Mr. Bonney.

After dinner, President Sargent called the society to order for a business meeting.

Mr. J. B. Walker, from the standing committee, reported that arrangements had been made whereby the society's rooms would be kept open two days of each week during the coming winter by the librarian, Isaac W. Hammond.

Mr. Hammond, from the committee on new members, reported the following named persons, who, after the acceptance of the report, were, by ballot, unanimously elected members of the society:

### RESIDENT MEMBERS.

Henry W. Stevens, Mrs. Ellen Tuck Stevens, Mrs. Martha W. Hammond, Mrs. Louisa J. Sargent, Benjamin E. Badger, Daniel B. Donovan, William A. J. Giles, Concord; Charles H. Amsden, Penacook; Warren F. Daniell, Franklin; Isaac B. Dodge, Amherst; John Scott, Peterboro'.

A letter of regret from Hon. C. H. Bell was read.

A communication from Charles H. Stubbs, M. D., of Wakefield, Lancaster Co., Penn., concerning casts of the milestones of

Mason and Dixon's line, was referred to the standing committee, with full power in the premises.

The same disposition was made of a communication concerning the first pipe organ constructed in New Hampshire.

The meeting then adjourned to Torrent Engine company's hall, where the exercises were opened at 7 : 15 o'clock with an address by President Sargent, who spoke as follows :

*Members of the N. H. Historical Society, Ladies and Gentlemen :*

We have met on this occasion to commemorate and celebrate in a proper way the one hundredth anniversary of the opening of the Penacook House as a public hotel, and though many improvements and changes may have been made within this long period, in the building, yet the principal portion of the building in which we have assembled and dined was here originally one hundred years ago when it was opened as a public house. There may be other hotels in some of our principal cities that have survived as long as this, though they have generally been built over so that the buildings are entirely new, and in many cases they have been renewed several times in the course of a century, where the hotel has been kept in the same locality and upon the same ground. But with the country hotels it is quite different. For one, I do not know of another case like this in the state, though there may be, where the same house has been used as a hotel for a hundred consecutive years, without any change in the location, or any considerable change in superstructure. Whether there are others or not like this, it is certainly a very remarkable case, and deserves some notice and some commemoration.

In considering this subject, our minds are naturally carried back the space of one hundred years. What has been the history of this public house through this long period? Who has kept the house, and with what success? What are its traditions, what anecdotes and what remarkable events are connected with its life and its history? And, in this connection, a word may properly be said about country taverns generally in the olden time.

Next we are led to inquire about the village in which this hotel is situated. What was the village one hundred years ago? What was its name, and what has been its history, and what its progress since? Who have lived here, and what have they achieved?



As it is usual for all infant towns or colonies among the first things they do to provide for a grist- and saw-mill within their borders, let us inquire what mills and what manufactories have grown up here in the past, and what is their present condition? We know that the Contoocook river, with its powerful stream, its falls, and its facilities for carrying mill and other machinery, runs through the town. How have these advantages been improved during the century?

We may also consider the modes of conveyance and transportation in the olden time, for this subject is intimately connected with the country hotel; the vehicles on which the merchants and farmers conveyed their merchandise and other produce to their several markets and the modes of travel to Boston and back again; and about the country in the good old days.

Next we may give a few thoughts to the general subject of the old time towns and villages in New Hampshire, for there was a general similarity between them all, according to the particular time in which they flourished.

And in this connection we may consider the subject of our old highways and also of the turnpikes, which for a time were the great improvement of their age.

We may also by way of contrast with these ancient ways and modes of travel and transportation consider the horse railroad as a great change for the better. And also the railroads and their machinery, engines and cars of all descriptions, from the rough box freight car to the finished and highly ornamented palace car with all its modern conveniences.

And then we might change our point of vision and instead of looking backward over one hundred years, we might look forward and inquire what changes in the modes of travel and transportation and the communication of thought and intelligence are likely to occur in the next one hundred or even fifty years. What greater velocity of motion, what greater facility in communicating intelligence? In fine, what improvements in all these subjects of interest are probable in the next fifty years?

So you see, friends, that we shall not lack for interesting subjects of discussion this evening, while we celebrate this one hundredth anniversary of the opening of Penacook hotel in the village of Penacook.

Joseph B. Walker, Esq., spoke upon "Penacook House and the Old Time Taverns of the State," as follows :

#### THE OLD INDIAN TRAIL.

One of the old Indian trails, leading from the coast towns of northern Massachusetts to Canada, after entering the Merrimack valley, ran along the course of that river, through Penny Cook, or the "crooked place," and past the mouth of the Contoocook, to the forks of the river at Franklin. Here it divided, one branch following the Winnepesaukee to Aquedahatan, at the lake's outlet, and the other the Pemigewasset as far as the mouth of Baker's river, whence it went along that stream and the Olliverian to the valley of the Connecticut. Thence it extended northward through the Coös county from which one branch ere long deflected to the northwest through the valley of the Passumpsic, and later another through that of the Nulhegan to the country upon the St. Francis and the St. Lawrence.

#### STAGES AND UP-COUNTRY TEAMS.

As fast as the country along these trails was settled, they broadened into highways and became main thoroughfares between northern Vermont and New Hampshire and Boston. Over them passed a large portion of the freight and travel to and from these localities. Passengers were conveyed mostly by stages, no less than thirty of which left or entered Concord every morning or evening. Merchandise was carried in immense wagons drawn by six and eight horse teams. Every considerable town supported one or more of these. Scores of them were to be seen upon the road every day, Sundays not excepted, sometimes dragging along singly, and at others in companies of from two or three to five or six or more. The horses never moved faster than a walk and were guided without reins by the teamster's voice and whip, who walked with even pace beside them. They never advanced more than from fifteen to eighteen miles a day or about one hundred miles a week.

These canvas-topped wagons, long and heavy, bore a load of about one ton per horse. No wheel brakes were used in descending steep hills. Instead thereof an extra pole enabled the four rear horses to resist the pressure of the loads at such times.

Their downward freights were farm produce, mainly. Their upward loads consisted of the various commodities retailed at country stores. In winter, in addition to these, large numbers of two-horse teams appeared upon the road, driven by farmers, carrying to market the beef, pork, corn oats, and other products of their farms, to be exchanged for family supplies.

#### TAVERNS.

To entertain these numerous wayfarers and their teams, taverns were found not only in the villages, but all along the way as well. It is easy to recall twenty-two, flourishing at one and the same time, between Concord and the Centre Road village of Salisbury, a distance of twenty miles. That some person here present may correct my remembrance, if at fault, I will repeat these by name. Starting at the South end of Main street, in Concord, we have 1st, Butters's; 2d, Gale's; 3d, the Phenix; 4th, the Columbian; 5th, the Eagle Coffee House; 6th, the American House; 7th, Stickney's; 8th, Herbert's; 9th, George's; 10th, the Washington House; 11th, Farnum's; 12th, Brown's, in Concord; 13th, Johnson's; 14th, Gerrish's; 15th, Green's; 16th, Carter's; 17th, West's; 18th, Ambrose's; 19th, Ames's; 20th, Hunt's, in Boscawen; 21st, Smith's; 22d, Webster's, in Salisbury. Hostelries similar to these extended all the way from Canada to Boston, located at short distances of two or three miles from each other. Sixteen of the twenty above mentioned exist now in history only. While some new ones have been opened along this same twenty miles, we can now count but seven public houses, and most of these of a different character from those they have succeeded. Only two of these are the original structures which were standing forty years ago, viz., Ambrose's and the one where we are met this evening. The last and oldest still remains, sound as a nut, and in vigorous activity, to celebrate whose one hundredth anniversary we are here met to-night. Where is the second of equal age? Name it if you can.

#### THE PENACOOK HOUSE.

The history of this house has been preserved with great fidelity. It was built by Capt. John Chandler, in 1787, who, with his family moved into it on the third day of September of that year. From that day to this it has been open as a public house.

Capt. Chandler kept it until 1818, a period of thirty-one years. He was succeeded by his son-in-law, Lieut. Reuben Johnson, who was its landlord until 1845, a period of twenty-seven years. Samuel A. Ambrose followed him, and, after keeping it three years, gave place, in 1848, to Luther G. Johnson, a grandson of the first proprietor. He kept it until January 1, 1854. Its ownership had passed from the Chandler-Johnson family, a month or two before he left it, to Col. John C. Smith, of Salisbury, who sold it a month later to Healey Morse. He kept it until 1859, when he leased it to Mr. Blake, who was its landlord for a single year, and was succeeded by W. A. Stevens, better known to the sporting fraternity as "Jockey Stevens." He left it in March, 1862, selling his lease to Mr. Hannibal Bonney, who bought the property the next year, and, very efficiently aided by Mrs. Bonney, has since made it one of the most comfortable hotels for sensible people to be found in all New England.

During its life of one hundred years this house has had nine landlords, three of whom, viz., Capt. Chandler, Lieut. Johnson, and Mr. Bonney, have "run it," as the phrase is in manufacturing communities, during eighty-three of the one hundred.

The ell is of more recent date, and was built for Capt. Chandler, in 1820, by Mr. Moses Morse, a builder of repute in his day, and still favorably remembered in this locality.

#### TWO KINDS OF TAVERNS.

These taverns were of two kinds, viz. :

*First.* Those kept for the most part in large villages, for the accommodation of stage passengers and persons travelling by private conveyances, and,

*Second.* Those kept mainly for entertaining the teamsters above mentioned and their horses. This distinction is a fair one if it be not carried too far, for the highest company often stopped at those of the latter class, and to this belonged the one which has ever had so distinguished a reputation, and has regaled us so satisfactorily on this occasion.

#### THE TEAM TAVERN.

Similar characteristics attached to all of this class. In front of each stood, well out in the highway like a giant to greet every passer along the road, a huge post twenty-five feet high, from



whose outstretched arm depended a double-faced sign board, bearing some "strange device" and the name of the house. Sometimes, like the device on that of the Washington House, it was a highly colored portrait of "the father of his country," suggestive of patriotism and good cheer. Sometimes it was a lively picture of some prancing stallion, like that upon the signboard of Brown's. At another time a golden phoenix, rising with outstretched wings from its ashes, welcomes the traveller, and suggests that hostelries may be immortal, like that golden bird upon the well remembered sign of the hotel which still bears that name. Again, it was a star like that at Atkinson's, whose supernumerary rays bore closer resemblance to a Mexican spur than to a heavenly orb; while, at another time still, it was a scantily robed Indian in his war paint, like the one which hung from Stickney's sign post. These two last may still be seen among the historic relics of our society.

Along the front of these taverns usually ran a piazza, sheltering a long seat, and reached by a flight of steps flanked at each end by an iron foot scraper, which was used. The front door opened upon a central hall from which a straight stair flight led to the second story. Upon one side of this a door labelled "Parlour" gave access to the darkest and least inviting of the two front rooms. This was for the use of ladies. Upon the other side another, labelled "Bar Room," gave entrance to the most spacious and cheerful room of the house. This was for gentlemen. Farther on, a third gave entrance to a long, low room called the "Dining-Room," and appropriately so, as the meals there despatched were dinner repeated three times each day, wholesome, substantial, and abundant. The service was upon the table d'hôte plan. But tardy waiters never vexed a guest by their delays, for each one helped himself when he could, and asked help from his neighbors when he required it. Little time was wasted at the table of one of these old taverns. A good square meal was usually finished, by the active aid of a two tined fork and a broad case knife, in about ten or twelve minutes.

But the bar room was, *par excellence*, the room of the house. It had more windows and more sunlight than any other. It had also the most comfortable chairs, and, in winter, the largest and brightest fire, upon whose maintenance the growth of a good

sized wood lot was annually expended. Numerous overcoats and whips hung all about the sides of the room, but rarely a hat, for this was never a consecrated apartment and its occupants seldom uncovered their heads. Placards of auctions, sheriffs' sales, balls, fairs, and horse trots enlivened the walls. The wash basin, towel, and suspended comb were free alike to all, while the uncarpeted floor invited every one to spit when and where he pleased.

In one corner of this room was the institution from which it derives its name, for we can call the bar nothing less than an institution. It consisted of a small enclosure made by a breastwork some five feet high, capped by a horizontal board some fifteen inches wide. It was entered by a door at one end, the only door in the house which had a lock upon it. Behind this breastwork stood the landlord, smiling upon his company. Upon shelves in his rear were displayed the bottles and boxes which held the supplies which he kept to cheer and solace his guests. Over this bar he dispensed spiritual comfort to the desponding and quieting narcotics to the nervous. When he left it he lowered upon it a lattice of bars, which, like the portcullis of an old feudal castle, effectually obstructed all access to its interior.

The landiord behind his bar, like the president in the White House, was a dispenser of favors. Nor did he for these demand an extravagant equivalent. He gave a glass of new rum for three cents, and a bunch of twenty-five long nine cigars for six.

The bar-room was a democratic place, open to all, where every man was as good as every other man and sometimes a little better. Here all subjects were discussed with the utmost freedom,—politics, religion, crops, temperance, wayside experience, and whatever else might be suggested. It was a central point to which news naturally tended, and it was also a radiating point from which it was diffused.

#### TAVERN CHARGES.

The charges for entertainment at these old inns were exceedingly moderate. A gentleman had supper, breakfast, and the sole occupancy of one of the best rooms of the house for a dollar. A teamster, who sat at the same table, had the same privileges, with the addition of grog and cigars night and morning, but lodged in a smaller chamber, which, if necessary, he shared with another, paid fifty cents.

The advent of the railroad forty years ago destroyed the occupation of the rural landlords. Many of their inns, deserted by their former patrons, were converted to farm houses, and are still used as such. Not a few, in ways unaccountable, took fire and were burned at the expense of the insurance companies. A limited number have, like the Penacook House, gathered new guests and still thrived.

But, who constituted the great procession which for the last hundred years has moved up and down this ancient thoroughfare we have neither knowledge or time to tell. They formed a part of the great caravan then marching onward to the realms of the future. So far as we know and remember them it becomes us to think charitably of their faults and to magnify their virtues.

Mr. Walker was followed by Messrs. Woodbridge Odlin, Abial Rolfe, William P. Chandler, of Illinois, and John C. Linehan, in a series of varied reminiscences.

"Mills and Manufacturing on the Contoocook and Neighboring Streams," was the subject of an address by Hon. John Kimball :

As early as 1732, the proprietors of what is now the city of Concord voted 140 acres of land to the party who would build a saw- and grist-mill on Turkey river. These conditions were complied with by Henry Lovejoy and Barrichias Farnum. The grist-mill was built near St. Paul's School, and the saw-mill at the next waterfall up the river. Unusual natural advantages were found at the outlet of Long Pond, and Mr. Lovejoy availed himself of them, built a mill, and resided there. His log house was near the building now owned by the city of Concord, which was formerly the homestead of the late Levi Hutchins. Mr. Farnum lived a little north, near the West Concord cemetery. Soon after they added a forge for the manufacture of wrought iron, from which the name Forge Pond was taken. The canal dug by Lovejoy to conduct the water from Forge Pond to his mill is now in use by the Concord Manufacturing Company. Lovejoy was driven away by the Indians, and the inhabitants of Rumford (now Concord), Contoocook (now Boscawen), and Canterbury (now Canterbury, Loudon and Northfield), seventy-one in number, petitioned Gov. Wentworth and the council "That Henry Lovejoy has at great expense erected a good mill at a place the most advantageously

situated to accommodate the three towns; that it is the only mill in all the three towns that stands under the command of the guns of the garrison." They ask that such protection as may encourage him to reënter and possess his at present abandoned garrison for the ends and purposes above mentioned. The petition bears date January 2, 1748.

#### MILLS AT BOSCAWEN PLAINS.

November 8, 1734, at a meeting of the proprietors of Contoocook, held in Newbury, Mass., voted that a grant of fifty acres of land, adjoining the mill privilege and on both sides of the stream, be given to those who would build a saw- and grist-mill, as soon as twenty families were settled there. These mills were situated on the small stream at the north end of King street, now Boscawen plain. The offer was accepted by nine men, who gave their bond that they would build the mills. Mills have been continued on the same site until the present time. It was the first mill built in the town. Dea. Isaac Pearson carried on the carding wool and dressing cloth business near the same place, many years later. He lived in what is now or recently the Ambrose tavern. The writer remembers the large letters I. P. painted on the garden fence more than fifty years ago. He was succeeded by Samuel M. Durgin, Esq., in the same business, who added the business of a wheelwright.

#### MILLS AT THE MOUTH OF THE CONTOOCCOOK.

The owners of the mills at the plain had the option to build a mill on the Contoocook river, provided there was not sufficient water for their mill at the former place.

No attempt was made to utilize the water power of the Contoocook till 1787, just one hundred years ago. The first was a saw-mill on the outlet in the Borough. Soon after there was a grist-mill with two run of stones, just above where is now the woolen factory of A. Harris' Sons. This mill was standing in 1830; the stones were removed by Mr. Benjamin Kimball for his mill, now in existence near the iron bridge, in 1831. There is a tradition that it was built by Isaac and Jeremiah Chandler. A canal was taken from the pond at the grist-mill, and by it the water was carried to the site of the saw-mill, built about the same time as the grist-mill. In 1830 this mill was owned by R. & W. H. Gage



and others. It consisted of two mills under one roof—the shore mill was used to saw all kinds of logs, while the “river mill” was used as a gang to saw oak plank for the ship-builders. The mill has been in constant use until recently. It was owned by the Chandlers, R. & W. H. Gage, and subsequently by C. & J. C. Gage, when it was sold to Messrs. Whitcher & Stratton and others.

About 1857, John V. Barron, John H. Pearson, and others, flour merchants of Concord, built a flour mill there, which has been in constant use to the present time, under different owners. It has been very successful. The present owners are Stratton, Merrill & Co.

Warren Johnson came here from Northwood in 1825, and built a blacksmith shop, having learned the trade of edge-tool making. He possessed superior skill as a worker of iron and steel, and soon added to his business the manufacture of mill work, iron axle-trees, and iron work generally. He died in this village a short time ago.

Hiram Gage, son of Richard, succeeded Mr. Johnson, but soon was attacked by the Western fever, and removed to Clinton, Iowa, where he now resides.

Saws of all kinds have been manufactured here by various parties, also, axe-handles, barrels for the flour mills, and many other industries have been carried on here.

The carding mill and cloth-dressing establishment of W. H. Gage was largely patronized. It was probably built about 1820. Wool was brought to Mr. Gage by the farmers, carded into “rolls,” then returned to the farmers to be spun and wove by their wives and daughters, the cloth returned to the mill to be dressed and made ready for the clothing of the family. This mill is now standing, and is used as a store house for the Harris Woolen Mill.

In 1847, Almon Harris of Nelson purchased the site of the old carding and grist mill, and built a stone factory, and commenced the manufacture of woolen goods. Since his death in 1876 the business has been successfully continued by his sons.

On the south side of the river, near the Merrimack, Mr. Nathaniel Rolfe built a saw-mill, in 1825. His wife was the daughter of Rev. Timothy Walker, the first minister of Concord. The mill was in successful operation until within a few years, and was carried on by his sons, Abial and Henry, Henry Rolfe & Sons,

Rolfe Brothers, and recently by his great grandsons, C. M. & A. W. Rolfe. Other buildings have been added from time to time, and the manufacture of lumber in various forms is still carried on there. The old, original mill is not now in existence.

Mr. William Blanchard, of Boston, came into the possession of some of the water power there, about twenty years ago, and engaged in the manufacture of "excelsior." This was made by cutting the fibres of poplar wood into fine shreds, some of them no larger than a coarse thread, to be used in the manufacture of furniture of an inferior quality.

At an earlier date Mr. H. N. Harvey manufactured sash, doors, and blinds there. He is now living in Canada.

Quite recently the mackerel kit machinery from West Concord has been operated there. Those who were active as ward politicians in 1861 will remember the party who voted the Mackerel Kit Ticket for mayor successfully, and to the successful candidate, Hon. Moses Humphrey, we are indebted for the rapid transportation by the motor line to this anniversary.

#### MILLS AND MANUFACTURING AT THE UPPER FALLS.

This water power had attracted attention. In 1824, George D. Varney, an enterprising man, came here from the eastern part of the State, near Dover. He purchased real estate about the falls of ten different holders. The first deed is dated January 1, 1825, and the last is from the administrator of the estate of Capt. John Chandler, dated September 2, 1825. Capt. Chandler died the 24th of January of the same year.

Mr. Varney built the dam at the upper falls, and commenced to erect a saw-mill on the south side of the river, but for some reason his project was not successful. The frame of the saw-mill was taken to the Borough, and set up just below the bridge. Nothing more was done until 1830, when the Varney purchase was conveyed to Benjamin Kimball by Hon. Jeremiah Mason, agent for the United States Bank, by deed dated 15 April, 1830. The deed was signed by Nicholas Biddle.

Those of you who remember the lively political times of Gen. Jackson, and have read a book entitled "Life and Public Services of Maj.-Gen. Jack Downing," will call to mind this distinguished bank president.

Mr. Kimball built the dam at the second fall, and erected the brick grist-mill in 1831. He died in 1834, and the property was sold, just before his death, to Calvin Gage and others, who obtained a charter for the Contoocook Company, and sold the property to Freeman and Francis Fisher, of Boston, May 7, 1835. The same year the foundation for the Contoocook mill was laid, and, in 1836, the mill was erected. It is of granite, one hundred feet long, fifty feet wide, and five stories high. The mill stood idle for several years, but the basement was used for the manufacture of match sticks. The matches were dipped in a small building now standing near the Washington House. Later a Mr. Messenger and A. B. Winn came here and commenced the manufacture of negro cloth in the Contoocook mill—a coarse fabric made with cotton warp and filled with cheap foreign wool. It was sold largely in the Southern states.

In 1842 manufacturing cotton goods became profitable. The Contoocook mill, which had been occupied for several years only in a small way as before named, was leased to H. H. and J. S. Brown, of Attleboro', Mass. They had moved here with their families, and there came with them their brothers and others, who have been prominent and honored citizens to this day. The mill was filled with machinery for manufacturing print cloths, which was successfully carried on for many years. The company, in their first purchase, bought all of the water power at both falls, and, in order to improve it on the south side of the river, it became necessary to obtain the land there, which was done in 1845. The following year the canal was dug, and the Penacook mill, three hundred feet long, fifty-two feet wide, and three stories high, was completed. This, too, was leased to the Messrs. Brown, who filled it with machinery, the same as the Contoocook mill, and it has been operated by them, either as partners or separately, nearly all of the time until the present, the brothers and sons having an interest part of the time.

Near the iron bridge is a small stone mill, which was, soon after 1850, occupied by Mr. J. B. Rand, for the manufacture of piano and other hardware. He soon added the manufacture of pianos. Mr. Rand did not continue a long time in the business.

Mr. Jonathan Walsh, who had been with James Howarth, of Loudon Ridge, filled the mill with machinery, and commenced the manufacture of woollen goods.

The mill is now occupied by Messrs. J. E. Symonds & Co., the Co. being our well-known fellow-citizen, George W. Abbott, Esq. They make dining and other tables. We should infer, from the general appearance at the easterly part of the village, that their labors were crowned with abundant success.

Just across Main street, near the iron bridge, there is a tract of land where once grew three or four large chestnut trees; one of them bore the biggest nuts that could be found in all Concord.

The trees have gone, but there have been introduced there several industries to supplant them. I do not know as I can name them in their order, but my recollection is the first was a small foundry and stove factory. The original proprietor, T. W. Pillsbury, sold it to Mr. Fisher Ames, now a resident here. He associated with himself his brother Albert, and Mr. Calvin Gerrish. There came a shower one night, and nearly all of the property was swept away, by the flood, into the foaming Contoocook. The house, formerly the hospitable home of Eben Batchelder, Esq., of Canterbury, was moved there, and a Mr. Bredt carried on the manufacture of shoe pegs in it. The building has been removed the past summer.

I omitted the manufacture of furniture at the lower fall, on the Boscawen side, which was begun by Mr. Robinson, and afterwards by B. F. Caldwell, about the year 1848.

In order to enlarge the business, Mr. Caldwell leased a water power at the upper fall, near where the chestnut trees stood, and built the first building. It was to this building he moved his machinery which was used for the manufacture of pine furniture. He continued alone for a time, when he took as partners the late Henry H. Amsden and Samuel Merriam. The factory was the largest of the kind in New England, and, for a time, it was about the only one. Mr. Merriam sold his interest to his partners, who continued in company until 1868. Afterwards Mr. Amsden and his sons became the sole proprietors. Since the death of Mr. Amsden and his eldest son, the business has been carried on by Hon. Charles H. Amsden, under the firm name of H. H. Amsden & Son.



The plant has been improved from time to time by increasing the capacity, adding steam power and new machinery of all kinds, including electric light, and is one of the leading unincorporated manufacturing industries of the state.

Remarks upon the same subject were made by Mr. Simeon Abbott.

Hon. Lyman D. Stevens spoke of "The Old Methods of Transportation," as follows :

Early in the history of mankind the idea of a vehicle on wheels and drawn by animals must have been suggested, doubtless, soon after the domestication of the horse and ox. The first efforts in this direction were of a very rude description, and they must have been very much like the bullock carts of South Central Africa of the present day. Carts on two wheels were of earlier origin than chariots. Six hundred years after the flood, both the Egyptians and Assyrians used both carts and chariots. Chariots were used for two purposes,—as an evidence of great dignity and exalted station, as when Pharaoh ordered that Joseph should ride in the second chariot. It was 300 or 400 years later when those designed for state carriages were provided with a cover and cushions on which the nobility reclined and the charioteer in front drove the horses. The first war chariot is said to have been built at Athens, by one Erecthoneus, about 1586, B. C., and continued in use till the Christian Era, when it was indicative of luxury only,—up to that time no springs had ever been used. During the Theoracy the use of chariots was forbidden, but in David's time and in Solomon's time they came into use, Solomon maintaining a force of 1,400 chariots, which were imported from Egypt at a cost, in our money, of over four millions. Chariots were used in the Isthmean and Olympian games, and the nobles drove with great rapidity over their magnificent roads.

During the dark ages the roads were so poor and rough that carriages were mostly abandoned. On the continent asses, mules, and large Norman horses were used. In 1550 there were only three coaches in Paris. The stage coach was first introduced in Queen Elizabeth's time, about 1564. The nobility soon set up their carriages, and some increased the number of horses to six and even eight. For the next hundred years the use of carriages

was confined to the nobility (but a few hackney coaches or hacks were kept for hire after 1625). During nearly the whole of the 18th century, hackney coaches, heavy stage coaches, and post chaises were the only vehicles used in England by those who did not own them. The huge covered wagons, drawn by 8 to 20 Norman horses, had a space partitioned off in the hinder end and covered with straw, in which 6 or 8 passengers could be carried, and all had to sit on the straw on the floor. This was called riding in the tail of the wagon.

Steel springs were introduced about the year 1750, but not the elliptic spring. The leather spring or thoroughbrace was first used about the end of the 18th century.

McAdam, Telford, and other civil engineers, near the beginning of the present century, so improved the highways in Great Britain that lines of stages were established, running regularly, carrying the mail, and made comfortable for the transportation of passengers, and made regularly 10 miles per hour. From 1795 to 1835 these vehicles were the favorites of travellers. At the time of the Revolution the stage coach was unknown on this continent. For the first two centuries the usual mode of travelling in this country was on horseback, for the good reason that there were no roads suitable for carriages. Improvement in roads led to improvement in vehicles, and from 1810 to 1845 stage coaches were, of their kind, admirable vehicles, and the Concord coaches and wagons became famous the world over.

Rev. Timothy Walker rode in a chaise having no top and wide enough for two persons. The first chaise in Concord was bought by Col. Benjamin Rolfe somewhere from 1767 to 1770. Dea. Joseph Hall, about the same time, purchased a chaise like Col. Rolfe's. Col. Peter Greene, Robert Harris, and Rev. Israel Evans, who settled in Concord in 1789, owned chaises. People generally rode on horseback or went on foot. There were very few sleighs, and in heavy snows horse- or ox-sleds were commonly used.

In 1810, history says, wagons were just beginning to make their appearance. The bodies rested on the axle and had no springs. Thoroughbraces came later. The roads were rough, stones were not cleared out, and the noise made by these wagons rattling over them was called home-spun thunder. When Benjamin Rolfe came

to Boscawen from Newbury, Mass., he rode with his wife on a single horse, bringing an axe, shave, podauger, gauge, hoe, other tools, and certain domestic utensils.

In closing, he said, if we shall imitate the high character of our forefathers for probity and patriotism, we shall continue to progress as a people, and our high character as a people must preserve us in time to come.

Hon. Sylvester Dana followed on the same subject.

Mr. Isaac W. Hammond gave "A New Version of Hannah Dustin."

Hon. Moses Humphrey spoke of the "Horse Railroad," and U. S. Senator William E. Chandler of "The Railroad—the Last and best Method of Transportation."

"What Changes in Modes of Transportation and Travel are Probable in the Next Fifty Years?" was the subject of the closing speech, by Amos Hadley. Mr. Hadley said :

I am asked to prophesy, though I am not a prophet, nor the son of one. But I can exercise the Yankee's privilege of guessing, and with the more boldness, as I have no fear that many of my compeers of the Historical Society, within present hearing, will have the opportunity to laugh at me half a century hence, however wild my guessings should prove. Indeed, the wonderful changes wrought in the mode of travel and transportation during the past fifty years, warrants a pretty adventurous flight of the imagination into the airy realm of the probable and possible in future changes. Those changes—from turnpike to railway ; from stage-coach to palace car ; from teamster's pung to merchandise train ; from the weary horse of flesh to untiring horse of iron as common carriers ; from sailing packet to ocean steamer ; from the days and weeks of tedious jogging to the hours and days of rapid transit ; from distance almost impassable to distance almost annihilated,—I need not dwell upon, as they have been pretty fully treated by preceding speakers. These changes seemed, fifty years ago, to most minds, "such stuff as dreams are made of."

There are some changes which solid reason can calculate upon as likely to occur within the next fifty years in this matter of transportation. My remarks will mainly be confined to the railway ;

which course certainly finds precedent in the present protracted session of the general court of New Hampshire. It seems reasonable to suppose that important improvements will be wrought by that subtle physical agent, the laws of whose operations science has been for years and is still wonderfully finding out, and applying to the practical uses of man. The inventions of Siemens, Aryton, Edison, and others, in electro-motion, and the experimental tests of those inventions, have already gone far towards proving the practicability of the employment of electricity as the motive power in transportation. Short lines, with the electric motor, are in operation in Europe; while experiments have been made, and are making, in this country, at art and scientific expositions, and upon street railways, all tending to show the feasibility of substituting the electric motor for horse or steam power in propulsion. "Already," as a competent observer has declared, "the electric railway is sufficiently advanced to be ready for commercial developement. The main features of a successful system have been determined. No new electrical discoveries are necessary to the practical realization of this mode of propulsion, and the problems to be encountered in actual construction are not beyond the skill of the engineer."

The general application of electric propulsion may confidently be expected to be made very soon upon street railways. I certainly expect to see my friend, Superintendent Humphrey, making a success of it upon his road very early in the next half century. But the application will not stop with street or suburban railroads; it can hardly fail to be extended to the general railway system, and to water transportation, as well.

Possibly, too, the "telpher," a contrivance in process of completion, may be found carrying its burdens through the air,—its light wheels propelled by electricity over rods strung upon poles sufficiently strong but inexpensive, thus affording a cheap and speedy transit for merchandise over portions of the country where it may not be profitable to lay surface tracks. How far aerial navigation may be otherwise extended to practical uses, can with no safety be predicted. I confess that I do not look for much from aeronautics in the way of practical improvement in modes of travel and transportation. But I would not be incredulous of the possible achievements of human science and ingenuity.



There have been miracles ; and, in an important sense, the day of miracles has not passed.

But you will now permit me, in conclusion, to back up some of my guessings by sundry declarations of a historian of the year of grace, 1938 : in other words, to reverse the glass prophetic, and look at events from the end historic. How I got this historic verification, you will not insist upon my telling, but here are excerpts germane to the subject under consideration, taken from a chapter entitled

#### THE AMBER AGE.

Fifty years ago, our country, from lakes to gulf, and from ocean to ocean, was threaded by iron lines of railroad. Now, these lines have been much multiplied. Then, steam was the motive power ; the heavy locomotive—a miniature Vesuvius—belching smoke and cinders, pulled the long and heavy train over the heavily constructed track, with the rumble of thunder. Now, the mile-long trains glide smoothly along, upon their light wheels, yet preserve adhesion to the track, impelled by a silent, mighty, and invisible force, and with all the old-time velocity. Of smoke and vexatious cinders there are none to molest the contented traveller. The mighty agent that propels, also lights with brilliance—as it does the cities and dwellings of men—the commodious cars at night ; while electric signals, instantaneously noting the position of trains, help preclude the possibility of collision. Besides, the lighter construction rendered possible by electro-motion, and the greater readiness with which it yields to control, with other ingenious devices in its application, prevent the serious effects of collision ; and the occurrence of those dreadful accidents, the heart-chilling accounts of which filled the columns of the newspapers fifty years ago, is absolutely impossible. Indeed, collisions themselves are reduced to the minimum of rarity. Nor do the snows and ice of Northern winters materially hinder ; for with the electric plow, with brushes of steel working before the wheels, and with other effective devices to preserve the due friction of wheels with track,—electricity is not baffled by the obstacles that winter may throw upon its track. \* \* \*

Moreover the expense of travel and transportation has been materially lessened through the employment of the same propelling agent ; and the assertion of Prof. Ayrton, made more than

fifty years ago, has been fully verified, that the cheapening of railway transportation is one of the chief recommendations of the electric system of locomotion. It is long since, that two cents or less have carried a passenger his mile, and that, too, without the discriminating expedient of a thousand mile ticket. \* \* \*

Now, though electricity has wrought many beneficial changes, it has not brought the millennium ; and railroad corporations are not yet so entirely scrupulous in the exercise of the vast power acquired by the concentration of capital, as not to need a vigilant popular eye. It is well for American liberty, that such an eye is and always has been upon them. The people will not sleep with the incubus of corporate monopoly brooding too heavily. Thus far the proper resistance has been made when the occasion has demanded. Occasionally, as half a century ago, an executive veto, like a thunderbolt of Jove, helps clear the atmosphere murky with unhealthy lobbyism. \* \* \*

On the whole, one may rejoice that his day and generation are of the present ; and as he recalls how the wise Thales of Miletus, twenty-five centuries ago, discovered electricity in the beautiful amber,—and thought it a living spirit,—may well, in view of all the wondrous beneficial uses to which the subtle agent has been since applied, and which bless morally, socially, intellectually, and economically the present era, recognize this Age, as, if not the *Golden* one, at least that of AMBER.

The following resolutions, presented by Mr. L. D. Stevens, were adopted :

*Resolved*, That the thanks of the N. H. Historical Society are due, and are hereby tendered, to Mr. Hannibal Bonney and his worthy wife, for the courteous and sumptuous manner in which they entertained its members on the occasion of the centennial celebration of the opening of his hotel ; and the wish is hereby expressed that the Penacook House may be as famous for its good cheer for a hundred years to come as it is under the charge of its present proprietor and his wife.

*Resolved*, That a copy of these resolutions be furnished Mr. and Mrs. Bonney.

Mr. J. B. Walker moved a vote of thanks to Messrs. Isaac K. Gage and Abial Rolfe for their efforts in carrying out so successfully the centennial observance,—which was passed.

The following resolution, presented by Mr. Sylvester Dana, was adopted :

*Resolved*, That the N. H. Historical Society hereby gratefully recognizes the kindness and courtesy of the Torrent Engine Company, of Boscawen, in placing their hall at the service of the society on their centennial anniversary of the Penacook House.

The society then adjourned till the third Tuesday of January, 1888.

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## ADJOURNED ANNUAL MEETING.

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CONCORD, Thursday, January 19, 1888.

The adjourned sixty-fifth annual meeting was held this day.

At 6 o'clock P. M. an elegant banquet of some thirty plates was served at the Phenix Hotel, after the courses of which President Sargent called to order in a business meeting.

A letter of regret from Hon. C. H. Bell was read.

A letter from Maria E. Brown, of Boston, concerning memorializing congress in relation to the discovery of America by Leif Erickson, was read.

Mr. J. B. Walker, in behalf of Mrs. Elizabeth L. Upham Walker, of Concord, and Rev. Nathaniel L. Upham, of Philadelphia, presented manuscript sermons of Rev. Timothy Upham, of Deerfield, N. H.

The gift was accepted with thanks to the donors, the surviving children of Hon. N. G. Upham, grandson of Rev. Timothy Upham.

The society then repaired to the hall of the Grand Army of the Republic.

President Sargent introduced the literary exercises by reading a Memoir of Rev. Timothy Upham :

*Members of the N. H. Historical Society, Ladies and Gentlemen :*

In overhauling, several months ago, a collection of papers that had, through many years, been accumulating in the house occupied by the late Judge Upham, of this city, a collection of sermons written and preached by the Rev. Timothy Upham, A. M., late of Deerfield, N. H., the grandfather of the Judge, were

found in a good state of preservation. It seems that Judge Upham and a younger brother of his had classified and arranged these sermons according to date, and putting the sermons of each into a separate volume, so as to make 39 volumes in all like the sample here present, and it was decided by the two surviving children of Judge Upham to donate the volumes to the N. H. Historical Society; and it was thought that this occasion would be favorable for that purpose, and it was thought best by the officers of the society and by the committee having the affair in charge that the subject for this evening's discussion should be "The life and character of the late Rev. Timothy Upham;" and in connection with that, "Some recollections of the clergymen of the olden time, particularly those who were active during our Revolutionary struggle." Arrangements have been made accordingly at the business meeting of the society, held since our banquet, this evening. These papers have been duly presented to the society by the Hon. Joseph B. Walker, in behalf of Mrs. Walker, his wife, and of her brother, Rev. Nathaniel L. Upham, a clergyman of the Presbyterian church in Philadelphia, in charge of their annuity fund for ministerial support, they being the only surviving children of the late Judge Upham. The papers have been duly accepted by the society and ordered to be placed among its archives, and we are here, my brethren, to carry out the remaining programme for the evening.

Rev. Timothy Upham was descended from John Upham, who was born in England in 1597, and came to this country about 1635, at the age of 38, and settled first in Weymouth, Mass.; removed to Malden, Mass., about the year 1648, where he lived until the time of his death, which occurred in 1681, at the age of 84. He was prominent among the business men in both those towns. He had a son, Phinehas, who was known as *Lieutenant* Phinehas Upham, and he had a son, Phinehas, who was known as *Deacon* Phinehas Upham, and he also had a son bearing his own name, who was known simply as Phinehas Upham, and he had a son, Timothy, born in 1710, who was the father of the Rev. Timothy Upham the subject of this sketch. He was born in Malden, Mass., February 20, 1748, where his ancestors had resided for a century. He graduated from the University at Cambridge in 1768, at the age of twenty years, studied for the ministry with



the Rev. Mr. Trask, of Brentwood, N. H., was licensed to preach and accepted a call from the church at Deerfield, N. H., and was ordained and installed as pastor of the church there in November, 1772, then twenty-four years of age, where he remained nearly thirty-nine years, and where he died February 21, 1811, aged sixty-three.

He married Miss Hannah Gookin, daughter of the Rev. Nathaniel Gookin, of North Hampton, and of Love Wingate, his wife. She was the mother of his children, and died in 1797. He married, for his second wife, Miss Hepsibah Neal, of Stratham, N. H., who died May 11, 1811, only a few months after her husband. He was the first pastor in the town of Deerfield, and this was his first and only pastorate. He is described as being a man six feet tall, rather spare, but perfectly erect. His hair was black, his eyes hazel, his nose straight and rather prominent, his teeth perfect and remaining so to the time of his death. His voice was remarkably melodious and powerful, his enunciation clear and distinct. His mind was well balanced, his judgment good, and his temper, though quick, was under perfect control. He was devout and earnest, wise and prudent, a faithful minister and well beloved by his people. We do not learn that he was given to preaching politics even though his ministrations extended over the exciting times attendant upon the Declaration of Independence and the Revolutionary War. We have no doubt, however, that he was a true patriot, and rejoiced in the success and independence of his country.

In the War of the Rebellion it was said that it was greatly due to the teachings and influence of our home missionaries that the great West was saved to the cause of freedom and the Union. So, in Revolutionary times, it was the teaching and the influence of the clergy of that day, as much as any other one cause, that aroused the spirit of patriotism and love of freedom that carried the country through its great struggle for life and liberty. Several of Mr. Upham's sermons were printed and extensively read. He preached a sermon before the Columbian Lodge of Freemasons of Deerfield, December 27, 1792, at the Festival of St. John the Evangelist, which was printed by request of the Lodge, in which he enjoined the duty of loving one another, and, in closing, said: "Much respected friends, as to the ends and design of your insti-

tution, the principles of Masonry or the festival you this day profess to celebrate, you can expect nothing from me. To say anything in commendation of that which I know nothing of would be insincere ; and to censure it would be illiberal and unjust." Passing over all these things, he appealed to them as candidates for crowns laid up in Heaven for all those who truly love God and one another.

He loved his profession and gave himself to it without reserve, filling up his days with usefulness. His salary was eighty pounds per annum or about four hundred dollars. On this sum he lived and supported his family, and was much given to hospitality. He was buried in the old grave-yard at Deerfield. His tomb-stone bears this inscription : "Sacred to the memory of the Rev. Timothy Upham, first pastor of the Congregational Church in this town, over which he was ordained November, 1772, and was continued to them to mutual satisfaction for thirty-nine years ; then this mortal put on immortality. In the joyful hope of a glorious resurrection he departed this life February 21, 1811, aged 63. As a testimony of their grateful remembrance of his long and affectionate services, the Congregational Society to whom he ministered have erected this monument."

His funeral sermon was preached by Rev. Peter Hall, A. M., of Epping, N. H., from which I extract the following : "Wisdom and prudence are highly requisite for a gospel minister. So necessary is prudence that some pious and learned men have thought that though a man might have every other qualification, yet if he has not a good measure of prudence, he ought never to be put into the gospel ministry. This was an eminent qualification in the deceased pastor of this church, as is manifested from the uninterrupted harmony which has continued between him and his dear people to the close of his life. In him was united much of the wisdom of the serpent and the harmlessness of the dove." "Add to this the Rev. Mr. Upham was a very humane, benevolent, and affectionate minister." And he finally adds : "It is *required* of a gospel minister that he be given to hospitality. This was an eminent trait in the character of your deceased pastor. They who visited him, whether strangers or acquaintances, were kindly received and courteously entertained."

We are reminded forcibly that a hundred years have brought about a great change in the manner and expense of living ; for it would be a very troublesome conundrum for the ministers of the present day to find out how they were to live and support and clothe and educate a family and pay necessary expenses, and be very benevolent and charitable, and also to meet that other requirement, that he be *given to hospitality*, and all on a salary of four hundred dollars a year.

In leaving the subject, we may be allowed to add that the eldest son of Rev. Timothy Upham was the Hon. Nathaniel Upham, who was a merchant by profession, and who commenced business at Deerfield, then removed to Portsmouth, and soon after to Rochester, N. H., where he continued to live the remainder of his life. He held various offices of trust, such as representative to the legislature, councillor for the state, and was three times elected to congress, being a member of that body from 1817 to 1823. He died July 10, 1829, at the age of 55. His second son, Nathaniel Gooking Upham, was the Judge Upham of this city, well known to most of us, who died in 1869, forty years after the death of his father.

I have thus briefly alluded to the history of the Upham family, and more particularly to the life and character of the Rev. Timothy Upham, of Deerfield, N. H., as introductory to the remarks of those who are to follow me this evening.

Hon. Sylvester Dana spoke of the "New Hampshire Ministers of the Olden Time."

Messrs. Isaac Walker, of Pembroke, J. A. Stickney, of Great Falls, and W. L. Foster, C. B. Crane, and Moses Humphrey, of Concord, responded to calls from the chair, in remarks upon kindred topics.

At the conclusion of the literary exercises, Mr. Isaac W. Hammond, from the committee on new members, recommended the following persons, who were unanimously elected, by ballot, members of the society :

#### RESIDENT MEMBERS.

W. H. H. Allen, Claremont ; Alonzo P. Carpenter, Mrs. Julia P. Carpenter, Mrs. Lydia F. Lund, Mrs. Ellen Chase, Mrs. Pauline L. Bowen, Mrs. Amanda Rice Tappan, John P. Nutter, A. J.

Prescott, William E. Hood, Edson J. Hill, Edward A. Moulton, Henri G. Blaisdell, Frank P. Andrews, Cornelius E. Clifford, Paul R. Holden, Harry P. Cilley, Mrs. Myra Tilton Kimball, Concord; John B. Smith, Hillsboro'; J. P. Kimball, M. D., Suncook.

The society then adjourned to meet again on the fourth Thursday of April next.

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## ADJOURNED ANNUAL MEETING.

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CONCORD, Tuesday, April 24, 1888.

The adjourned sixty-fifth annual meeting of the society was held this day.

Members of the society, with invited guests, partook, at 6 : 30 o'clock P. M., of a collation served at Eagle Hotel.

Literary exercises then took place, at 7 : 30 P. M., at the hall of the Grand Army of the Republic, the president in the chair.

Rev. Edmund F. Slafter, of Boston, delivered an address upon "The Discovery of America by the Northmen."

After the address, Miss Grace E. Drew read Longfellow's "Skeleton in Armor."

In the business meeting of the society which followed, Mr. J. B. Walker presented the following resolutions which were adopted :

*Resolved*, That the thanks of this society be hereby presented to Mr. Slafter for his very able, interesting, and important address upon the advent of the Northmen to this continent, and that he be invited to furnish a copy of the same for publication in our Proceedings.

*Be it also resolved*, That our thanks are due and are hereby tendered to Miss Grace E. Drew for her appreciative and exceedingly satisfactory reading of Mr. Longfellow's "Skeleton in Armor."

Mr. Slafter, in brief response, stated his studies had not warranted the opinion that Columbus knew anything of the discovery by the Northmen.

Mr. Hammond, from the committee on new members, recommended the following-named persons, who, upon the acceptance



of the report, were unanimously elected, by ballot, members of the society :

RESIDENT MEMBERS.

John C. French, Manchester ; Rev. Ebenezer Greenleaf Parsons, Derry ; Rev. George W. Gardner, D. D., New London ; Rev. Bradley Gilman, Mrs. Maria L. Gove, Frank W. Rollins, Concord.

Mr. I. W. Hammond offered the following preamble and resolution :

WHEREAS, This society has no way of warming its library room, and it being deemed advisable by some of the members that a suitable arrangement be provided before another winter, in order to render the room eligible for the holding of meetings of the society, the accommodation of historical students, and to enable the librarian to prosecute the work of arranging and cataloguing the books and pamphlets ; therefore,

*Resolved*, That a committee, consisting of Messrs. John Kimball, Joseph B. Walker, and Irving A. Watson, be appointed to take the matter into consideration, decide upon the best plan for warming said rooms, the expense thereof, and recommend some way of raising the funds for completing the same ; said committee being respectfully requested to report their conclusions at the annual meeting in June next.

The president stated that he had appointed a committee to attend the recent centennial celebration at Marietta, Ohio.

After some discussion, the matter of making preliminary arrangements looking to a proper centennial celebration, on the 21st day of June next, of the ratification of the constitution of the United States by New Hampshire, was referred to the committee on orator and the standing committee, to report at the next adjourned annual meeting of the society.

Adjourned to meet at the society's rooms, on Wednesday, May 9, 1888, at 11 o'clock A. M.

## ADJOURNED ANNUAL MEETING.

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CONCORD, Wednesday, May 9, 1888.

The adjourned sixty-fifth annual meeting of the society was held at the society's rooms, this day, at 11 o'clock A. M.

Mr. S. C. Eastman, from the committee appointed at the last meeting to consider the matter of the centennial celebration, on the 21st day of June next, of the ratification of the constitution of the United States by New Hampshire, made a report recommending the appointment of a committee to ascertain, by circular, the feasibility of providing a dinner, and defraying other necessary expenses for the occasion, and such feasibility being ascertained, to make the necessary arrangements for the proper observance of the day.

A committee of three, with authority to add others, was thereupon appointed in accordance with the tenor of the report, consisting of Messrs. Samuel C. Eastman, Amos Hadley, and Joseph C. A. Hill.

Mr. Isaac W. Hammond, from the committee on new members, recommended the following-named persons, who, upon the acceptance of the report, were unanimously elected, by ballot, members of the society :

## RESIDENT MEMBERS.

Roscoe E. Collins, Franklin ; Francis L. Abbott, Very Reverend John E. Barry, V. G., Concord.

The society then adjourned *sine die*.

# REVIEW OF THE EARLY RECORDS OF NEW CASTLE, NEW HAMPSHIRE.

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DELIVERED BEFORE THE NEW HAMPSHIRE HISTORICAL SOCIETY, OCT. 7, 1874,

BY

JOHN ALBEE, ESQ.

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For many years the early records of the old town of New Castle, from 1693 to 1756, had been missing, and while a later volume was supposed to have been borrowed, with or without leave, by a lawyer who visited England many years ago to hunt land titles or other family property, and died there, tradition hinted that the earliest records disappeared in the exciting times of the Revolution. Nothing, however, was known or could be ascertained of the missing volumes, until the letter given below was received by Mr. Howard M. Curtis, town-clerk of New Castle :

AMERICAN-EUROPEAN EXPRESS, 22 MOORGATE STREET,  
LONDON, Sept. 15, 1873.

*Dear Sir :—*Having been favored with your address by a friend in the office of the Adams Express Company, Boston, I take the liberty of addressing you in reference to a matter of considerable interest, as it seems to me, to yourself and fellow-townsmen of New Castle. A neighbor of mine in Hertfordshire has in his possession the original town records (manuscript) of New Castle, from the year 1693 to 1724, inclusive, in which are included meetings of the town, assembly, appointments of officials, constables, ministers, etc. ; discussions and resolutions concerning repairs of meeting-house, court house ; appropriation of lots, management of ferries ; births, deaths, marriages, and a host of other curious and interesting proceedings and events during that period.

The manuscript, which is in very fair preservation, is bound or enclosed in the original rough calf binding, and inscribed, "Records of ye towne of New Castle in New England, 1693." It was probably abstracted by a British soldier during the War of the Revolution, and has ever since been held in this country—for many years past by my friend before mentioned. As an American, I should be glad to see the work returned to its proper depository, where, I doubt not, it would be welcomed, not only for its intrinsic value (whatever that may be), but for its mysterious absence and return after the lapse of nearly a hundred years.

I confess that as a descendant of New England, these old time-worn pages have a peculiar charm for me, and seem to place me in direct and intimate communication with the actors of two centuries ago, as I read their simple history recorded in their own hand-writing.

I shall be pleased to hear from you, and to know how far your views agree with my own as to the importance of these records to your town. Meanwhile, I remain, dear sir, yours very truly,

HENRY STARR.

H. M. CURTIS, ESQ., New Castle, N. H.

Mr. Starr is of the firm of H. Starr & Co., London agents of the Union & Central Pacific Railroad line, and his letter being thankfully received and fittingly replied to by Mr. Curtis, in due time was followed by other letters given below, and the restoration of the records, consisting of two thin folios, one bound in vellum, the other unbound. The slight inaccuracy in Mr. Starr's description of the binding and number of volumes was probably due to his letter being written without the documents before him :

LONDON, Oct. 24, 1873.

H. M. CURTIS, ESQ.,—

*Dear Sir* :—I have the pleasure to own receipt of your esteemed favor of 3d instant, and also of one from your townsman, Mr. F. H. Wade, of 1st idem, in relation to the collection of town records mentioned in my respects of Sept 15 to yourself.

It is very gratifying to me, as well as to my friend, Captain Bokenham, of Cheshunt, who has for many years had possession of the book, to know that it is to be at length restored to its proper



depository, from whence so many years ago it was spirited away. It adds greatly to our satisfaction to know that the long lost records will be heartily welcomed back by yourself and fellow-townsmen, after their wanderings of the greater part of a century ; for it seems probable that they formed a part of the booty taken from your town by George the Third's men. I trust that when once deposited in their ancient home again no sacrilegious hand will ever be found to remove them, or that in the sad event of a war with any foreign power, at a future time, the good town of New Castle will be ready and able to protect itself and its property from the hands of the spoiler.

Captain Bokenham is unwilling to receive any compensation for the book, being only too glad of the opportunity (which he has never before had) of restoring it to its legitimate owners, and hopes it will be received as a token of good will from Old to New England.

Yours truly,

\* \* \*

H. STARR.

The precious little volumes were received at New Castle, via Cunard steamer and Adams Express, almost simultaneously with the above letter, and restored to the archives of the town, where they fill a niche all the more important from the fact that the earliest volume of Portsmouth's records, the adjoining town, is missing, being supposed to have been designedly burned by our people at the time Massachusetts assumed control of this province.

The New Hampshire Historical Society, at their next meeting after this restoration, by vote invited Mr. John Albee of New Castle, a well known literary gentleman, to prepare a paper upon these early records, to be read at the winter meeting of the society in Concord, which duty he fulfilled to the best acceptance and high approval of all ; and by his kind permission the paper is herewith printed in full :

#### NEW CASTLE RECORDS REVIEWED BY JOHN ALBEE.

I have neither the taste nor the training requisite for historical or antiquarian research ; but the accident of my situation has made me familiar with some fragments of early local history, and in some measure made it incumbent upon me to assist in their preservation. I could couch my apology for appearing before

this learned society almost in the very words of that most diligent of English antiquaries, John Aubrey: "This searching after antiquities is a wearisome task. Though of all studies I take the least delight in this, yet methinks I am carried on with a kind of *æstrum*, for nobody else hereabout hardly cares for it, but rather makes a scorn of it. But methinks it shows a kind of gratitude and good nature to review the memories and memorials of the pious, long since dead and gone." So he wrote after a lifetime spent in the hunt after remote histories and traditions and the still more unknowable things of early chemistry, mineralogy, and astrology.

The importance of the early records of which you have invited me to give a sketch is not, I venture to say, very great. They are curious and entertaining; but, after several readings, I am struck with the feeling that, after all, we do not get very near the actual life of the people who lived in New Castle from 1693 to 1724. Perhaps no official records could be expected to give this, yet we always hope to come upon something that may restore for us the dead past. Certainly the picture is not very complete, when we have only an outline of what was done by a body of men met together for formal deliberation. I would the town clerks of former generations had kept their records with a more loving and freer hand, and put down *all* that was said and done. A town clerk, in my opinion, should be either a bit of a poet, with an eye for seeing the really enduring and permanently interesting in his day and place, or the most minute chronicler—the antiquary, historian, biographer, and reporter of his own neighborhood.

It is not impossible, however, that in these records may be matter of more consequence than appears to one who is only on the lookout for the picturesque and the romantic. You, gentlemen, may be able to see their bearing, illustration or corroboration of other early provincial history. New Castle was incorporated on the 30th of May, 1693, in the fifth year of William and Mary, and still exists and acts under their royal charter, having never received any other from the states.

In the petition of the inhabitants for a town charter, the principal consideration why it should be granted is the difficulty of attending church in Portsmouth. As they must necessarily go by water, it frequently happened that they were prevented by the

weather or the state of the water. They lament in consequence the growing habit in their community of a less and less strict observance of the Sabbath day, and its effects in the future, especially upon their children. Their prayer was granted, not, however, without opposition on the part of Portsmouth.

The only town officers for the first year were three selectmen, viz., John Clark, James Randel, and Francis Tucker, and one constable, John Leach. It is curious to note that the very first official action of the new town, no doubt quite proud of its fresh honor and careless of its cost, was in regard to raising money for the support of the Government. They took up the burden, from which for nearly 200 years they have never been relieved, but have been more and more weighed down. This town, permit me to say, has been sorely oppressed by its neighbors, by the state, and by the United States. The inhabitants were ordered to bring in an inventory of their estates on the 31st of August, 1693, and a tax of £25 9s was levied; £23 6s 8d for the province, "for repair of fortifications and reimbursing ye treasurer," and £1 14s 1d for the town's use. But already thus early, as appears by the town account immediately following, the expenditures exceeded the appropriation by 8s 11d. The town actually spent £2 3s; but, perhaps, they did not count the cost of a pair of stocks, so necessary to the credit and security of their new dignity. In the first account the town is debtor to mending the meeting house windows 10s; to a pair of stocks, £1 5s; to abatement of taxes, 8s. In 1693, the town spent £2 3s; in 1874, \$4,700, with a population not very much larger.

The first town meeting appears to have been held on the 20th of December, 1693, at ye meeting-house, its object being "to agree with a minister, and discourse other things necessary for the town's benefit." At this meeting were chosen to "discourse a minister" Robert Elliot, Esq., Captain Shadrach Walton, Mr. John Foss, and Mr. William Seavey, together with the selectmen. The minister whom they successfully discoursed was one Mr. Woodbridge, who agreed to preach one year for £60.

The first regular annual town meeting, which was fixed by the charter to be held on the first Tuesday in March, the day which is still adhered to, was held March 6, 1694. Robert Elliott, Major Elias Stileman, and Mr. William Seavey were chosen selectmen.

No town clerk was chosen. But at a subsequent meeting in August of the same year, Theo. Atkinson was chosen town clerk, and I presume that a larger part of the first volume of records is in his handwriting. At the same meeting which elected Theo. Atkinson town clerk, a vote was passed ordering a gallery to be made at the lattermost end of the meeting-house, for the women to sit in. It was also ordered that "one householder or more walk, every Sabbath day in sermon time, with the constable, to every public house in the town, to suppress ill orders, and if they think convenient, to private houses also." The same order was made for the night time, the constable to take four men from the night watch, and visit all public places and private houses if necessary. By this order it would appear that a regular night watch was the custom of the place.

At the same meeting a very curious order was polled, that no person should entertain a stranger above fourteen days before giving notice thereof to the selectmen, under penalty of a fine, the amount of which I cannot state, as it is partially obliterated from the page. Then comes an order, which is a very good early model of a modern Maine liquor law. I give it entire: "Then ordered, for the prevention of charge coming on this town by some certain noted common drunkards, that the names of such persons be given by the selectmen to every publick house in this town in a paper, and a fine to be inflicted on whomsoever shall sell any drink to persons so noted and named."

I have copied somewhat fully the record of this meeting, because it appears to have been important in several respects. First, they appear to have seen the necessity of recording their doings, and to have shown a great deal of sense in choosing such a man as Theo. Atkinson for town clerk; second, in regulating the seating of the church; and third and most important, in establishing certain rules for regulating their domestic concerns. In short, they undertook to govern themselves by laws of their own making. How far these correspond with those of other towns and places at the same period, you know, gentlemen, much better than I.

At the next town meeting in October, same year, the town chose its first Assemblymen, Thomas Cobbett and James Randel. Assemblymen, I find by the town accounts, were paid three dol-



lars per day, and I should judge from their accounts that the Assembly were usually in session about two weeks. Thus early New Hampshire seems to have made short work of its legislative business, though the legislators were paid more handsomely then than now.

At this time the advice of Rev. Mr. Woodbridge, whose year of ministration was expired, was asked with reference to a new minister. He recommended either Mr. Bradstreet, Mr. Audley, or Mr. Curhen.

The second annual town meeting was held on the 5th of March, 1695. At this meeting they increased their list of town officers by the addition of surveyors of highways, commissioner or justice of the peace, cullers of staves, and packers of mackerel, meats, etc. In May a meeting was called to choose assemblymen, and Captain Elias Stileman and Mr. James Randel were selected. It seems to have been generally the custom to choose assemblymen at a special meeting called for that particular purpose, though other business was sometimes transacted.

The second town account contains no province rates, and the town expenses had swelled to the sum of £22 6s 3d. Most of the items are for repairs on the meeting-house. The gallery built for the women, to which reference has been made, cost £3, and is contained in this account. Boards cost the town at the rate of fifty shillings per thousand. There is an item which reads, "To Captain Stileman, for paper for ye towns book, three shillings,"—which is probably the very book long lost and recently restored, which I now hold in my hand. Another item reads, "To 1 pair of *esses*, to hang ye meeting-house door." And here comes in the expense of procuring, or else for the parchment and the copying the town charter, £3 15s. This was its first cost; you will remember that by the conditions of the charter, which I have brought with me for your inspection, they were to pay annually "owne pepper-corn."

The most important event in town affairs for 1695 was the calling and settlement of Rev. Samuel Moody. I imagine from the language of a vote passed in a town meeting October 29, 1694—"Then ordered that ye town shall choose and call a minister themselves,"—that they had been heretofore in some way either dependent on others for supplying to them their spiritual food, or

had hired for a longer or shorter time such ministers as could be obtained without making a regular settlement. But the dignity of an incorporated town, and no doubt some incipient jealousy of Strawberry Bank, the growing rival of New Castle, demanded a settled ministry. I have no doubt, from the various meetings called on this subject, and the stately formality and precision of the orders passed, that they felt that they were entering upon a very important event. A committee had been appointed as usual to "discourse" Mr. Moody. A special meeting was called to hear their report. In substance it was that they had agreed with him for seventy pounds (in money) per year; he finding himself housing and all other conveniences on his own charge. This report is signed by Robert Elliot, Elias Stileman and Shadrach Walton. It was ratified by the meeting in the following form: "Read the above return at this general town meeting and put it to vote; it is consented unto and agreed upon that accd. to ye above agreement made by Mr. Rob. Elliot, Maj. Elias Stileman & Capt. Shadrach Walton, the town will pay Mr. Sam. Moody seventy pounds for each year he stayeth here settled minister, and that his answer is satisfactory to the town and is settled minister for this town during his abode here in the ministry." What pains this vote must have cost the writer or the mover! But it is not to be compared with the trouble I have had in deciphering it, for it is not in the neat and legible hand of Theo. Atkinson, but in the Gothic character—the handwriting of Francis Tucker. The idea of a *settled ministry* overflows in it. Mr. Sam. Moody was a son of Joshua Moody, and subsequently better known as a renowned colonel and Indian fighter.

I have said that no province rate is contained in the second town account; but on the 8th Sept. 1695, an order came from George Jaffrey, treasurer of the province, for the making of a rate of £35 16s 3d, and it appears in the third account among the expenses of the town. I would just mention, in passing, that the house of the above-mentioned George Jaffrey is still standing in New Castle, and is now occupied by the writer.

The province rates appear to have been laid at no regular fixed times, but as convenience required.

The General Assembly for this year—1695—was held at New Castle as appears by the records.

At a meeting on the 16th December two assessors were chosen, being the first mention of such officers in these records. About this time sundry orders are passed in regard to seating the meeting-house, and severe penalties are inflicted upon such as do not comply with the orders of those having the matter in charge. The church was far from being democratic, and had its high seats and low seats, besides galleries, which gave rise, no doubt, to many jealousies and heartburnings.

The town account for this year is the third and last contained in these records. Thereafter they were probably kept in a separate book or leaves. The whole account foots up £118 6s 9d—still increasing, you perceive, at a fearful rate, and destined to still more rapid acceleration. The account is made up first of the province rate, £35 16s 3d; the minister's salary, £70; and items mostly for the meeting-house as usual, as for instance, Good-wife Head, cleaning it, £1 5s; ringing ye bell, 15s.

At the end of this account is a receipt from Mr. Sam. Moody for £70, his salary from Dec. 16, 1694, to Dec. 16, 1695, in his handwriting and his autograph.

We come now to the year 1696, and the first entry for this year contains the most important piece of information I have found in these records. The treasurer of the province ordered a list or inventory of the heads and ratable estates, real and personal, in the town to be taken. The ratable estates returned amounted to £1115 11s, and the heads ratable 108. Thus giving us a population in 1696 of between 500 and 600; one hundred less than the present population. It gives us a rate, as by the last list of expenses for 1695, of 9 1-2 per cent.

The prescript for the annual meeting of 1696 I shall read you in full, as it is in the best style of these records: "These are to give notice to the Freeholders and inhabitants of this town that they are to meet at the Meeting-house at eight of the clock in ye morning, on Tuesday come sevensnight, it being the first Tuesday in M'ch for to choose constables, selectmen and other officers for this town acc'd to a charter granted by the Right Hon. John Usher, Esq., Lieut. Gov. & Comm. in Chief of this Province."

I may notice in passing the importance of the office of constable, at that period. Their names always take precedence of the

other town officials. They were the executive function of the town.

At this meeting all past town-clerks were voted twenty shillings per year for their services, and in future forty shillings. At about this time the selectmen began to hold meetings at private houses on a fixed day in each month, for the purpose of attending to any business which might be brought before them by the inhabitants. The following is a sample of the sort of business transacted at their monthly meetings: "The selectmen met at the house of Mrs. Hannah Purmort, and Majorie Roe being complained of for her not taking care to maintain herself, was sent for before the selectmen and she was then ordered by the selectmen to put herself upon some honest employment whereby to maintain herself within one month's time, or she should be sent unto ye town whence she came."

At a meeting of June 12, same year, it was ordered "That any person that lives in any dwelling-house in this town shall provide to the said house a good ladder; it shall reach to the top of the said house.

Also ordered: "That whoever letts their chimney take fire that it flames out ye top, unless in the time of snow or rain, and then set on fire on purpose, shall pay the sum of ten shillings for each default.

Also ordered: "That no ram be let run on the commons from June 20th until November 1st, on penalty of the loss of the ram, the ram to be killed and divided, one-half for the use of the poor and one-half to the informer."

I find by these records that the whole amount of the province rate for 1697 was £650, and that the proportion of New Castle was £79 12s 6d, or about one-eighth. Also, that now for a series of years Theo. Atkinson was regularly chosen one of the assemblymen, besides holding town offices, and in 1698 his handwriting again appears in the records, and extends through a large part of the first volume.

In 1699 six acres of land were laid out for the use of the ministry. This piece of land, known still as the parsonage lot, remained until quite recently in the possession of the town.

In 1700 a very admirable law was passed by the town to the effect, "That whereas sundry persons fit and qualified to serve



the town in sundry offices, doth refuse to serve, and no penalty yet provided against such: voted that whatsoever person shall refuse to serve in a place, being legally chosen, shall pay 10s for each such refusal or neglect." The substance of this law is re-enacted several times in the course of the years covered by these records. It certainly is one of the wisest provisions of a free government that men fit and qualified to conduct its affairs should be chosen for its officers, and our fathers recognized it as a high duty not to be lightly evaded.

In 1703 Mr. Moody, the minister who was settled, as has been stated, in December, 1694, and who appears to have remained all through these nine years, began to complain of arrears in his salary. Seventy pounds in money had been promised him, you will recollect. But now the town voted they would pay his debt in money, and continue him at his old salary, but not be obliged to pay him all money, but part money and part provisions. As, for various years preceding, several attempts had been made to adjust the town accounts, and cancel old debts, I conclude the town was spending more money than it could afford, and that they could with difficulty collect the taxes they apportioned. Constables were delinquent, and had to be summarily dealt with, until the office went begging; fines were imposed, and often paid, rather than serve in that office, for I have no doubt it is to that office the order mainly refers passed March 26, 1700, and which I have already quoted.

Mr. Moody made his complaint January, 1703. At the annual meeting in March a vote was passed that whatever minister shall preach during this year shall receive each Sunday 20s, from which I infer that Mr. Moody had left or was about to leave the church. At any rate, on the 24th May, same year, Rev. John Emerson was invited to settle in the town, at a salary of £65 and the contributions of strangers; and they also voted that when they were able they would contribute to the building a minister's house. This business was put off from time to time, and was the source of much contention between the minister and the town. Rev. John Emerson was a noted divine, and it might be interesting to sketch his connection with the parish and town of New Castle; but it seemed to me best to confine myself strictly to the subject matter of these records, and I shall therefore only refer to his history so

far as contained in them. He was settled in New Castle from 1703 to 1711-'12. During this period he visited England, and attracted attention on account of his handsome face. I am under the impression that it was during his visit to England that Queen Anne, who is said to have fallen in love with the fascinating parson, gave to his church massive and heavy silver tankards for the communion service. Sorry am I to tell you that twenty-five years ago these tankards, being considered too old-fashioned, were melted over into something sufficiently ungraceful never to be mistaken for anything other than modern. A new meeting-house was built during his ministry. The first one was in the vicinity of Fort William and Mary, or as now called Fort Constitution. The second was nearly on the site of the present, but stood farther into the street. It is impossible to fix the exact date when the new meeting-house, the second, was begun or finished; and there is a very singular omission in these records, generally so full on all matters connected with the church, of any vote ordering the construction of a new house of worship.

The first reference to it is at the annual March meeting in the year 1704, where it was "voted that Mr. Theo. Atkinson be employed in getting the meeting-house now framed, or near framed, raised, enclosed, floored, with the pulpit and doors, and glazed, shingled, and clapboarded." In 1705 a committee of nine was appointed for laying out the pews and seats in the meeting-house. And August 22, 1706, is the only other allusion, which, however, shows that the new was built and in use and the old one torn down. "Voted, that Mr. Joseph Simpson lay out 50s in glazing ye new meeting-house, being so much money due to ye town from said Simpson for ye frame of ye old meeting-house and what boards was to it." Thus we learn the price of a worn-out church in olden times, 50s!

There is nothing else of interest during the time of Mr. Emerson's service in the New Castle church, except the repeated promise, as often broken, of the town to build a parsonage house. Mr. Emerson often called the town together to remind them of their promise. Once, these records state, that when the inhabitants in town meeting assembled were called upon "to speak their minds thereabout," "they generally plead poverty and many not willing." But oftener they voted to proceed about it and build it

immediately, or else buy a house already built. At last, in August, 1710, Mr. Emerson, finding his house too inconvenient and his salary too small to pay the rent, called the town together once more. Various proposals were made ; all ending, however, in postponement of the matter as usual. So that in the following month Mr. Emerson called the people together again, and informed them that not finding the "ayre" of this town agreeing with "his thin constitution," he thinks it absolutely necessary for him to move farther from the sea. As he moved no farther from the sea than Portsmouth, where he remained for twenty-two years, and died at a ripe age, we may conclude that something else than the salt air of New Castle was unfavorable to his peculiar constitution.

I find very little of importance to note in the civil affairs of the town for the period of Mr. Emerson's ministry, ending in 1710-'11. New Castle at this time included a large part of what is now the territory of Rye, separated by a body of water called sometimes Little Harbor River, but oftener Little Harbor. The territory on the south side of this water, or, as now called, the Rye side, was formerly called, and is often alluded to in the records as Little Harbor side, or sometimes Sandy Beach, now known as Wallis Sands. The population on that side must have been at this period small and much scattered. It is still the characteristic of the town of Rye. It is one of those towns whose centre is nowhere in particular. Mason Hall, with its magnificent designs and visions, did not call into being any town or village about it. But there must have been a small population in its neighborhood, for I find continual contentions about the ferry across Little Harbor. The people claimed free ferriage on Sundays, training days, and holidays. One year, Robert Elliot, to appease the people, offered to pay the ferryman's charges. At another time the ferryman was by special act of the General Assembly exempted from his rates and excise on selling liquor, from which it would appear he kept a dram shop.

It appears that in 1705 the population on the Rye side had become of importance enough to share in the town offices, and for the above year Nicholas Hodge is chosen constable for Sandy Beach.

The town authorities seem to have been beset at about this period with troubles arising out of land grants and trespasses com-

mitted upon the common land. But this excites no wonder when we read the description of the numerous grants of land contained on the obverse leaves of these two volumes of records. Bounds by rock and stone, tree and bush and path must have been too vague to be identified for any length of time. And the saving clause of such grants—unless the aforesaid encroaches on any other man's grant—shows the uncertainty even then of their allotments. At length, in 1708, a commission was chosen to run the town lands; and they voted to sustain the town authorities in any action against trespassers, and also that the commons should be divided among the citizens according to their rates for that year.

I notice here, what is common all through these records, and is, I believe, continued to the present day in our town meetings, the appointment of committees to call selectmen and constables to an account for the way in which they have spent the town's money. I am quite certain that no year passes in New Castle, in modern times, without the appointment of an investigating committee for some purpose or other. The writer has himself been the subject of one. There is sometimes the greatest indifference to public affairs, and sometimes the greatest excitement and the strongest partisan zeal. In either case, unworthy men find a tide which serves them.

In this same year of 1708 the price of pews in the meeting house was fixed at £7. For the time one would say a very considerable rent to pay for a pew. But we must remember that there were but few pews; most of the people were seated on forms, said to be good for keeping the back straight and faith strict.

In seventeen years after the incorporation of the town, viz., 1710, the expenses of the town were £144 18s 6d., or nearly six times the amount of the first year.

I return now to the close of Mr. Emerson's ministry. At the same meeting which received his resignation, it was voted that an application be made to the president of the college [Harvard College] to procure a minister suitable for the place. A letter was received from the president recommending John Tuck. He was not, however, the successful candidate, but Rev. William Shurtleff was settled.



It was "voted that Mr. Shurtleff should have £65 a year for his annual salary during ye time he lives single; but when his family increases by marriage he shall have £80 per year." Notwithstanding this ample premium on marriage, and which or some other more noble incentive induced the young minister to increase his family by the addition of the sister of Theodore Atkinson, there is ground for believing he regretted his days of single blessedness and £65. For after this increase in his family he found it sometimes difficult to get to church at sermon time, by reason of being locked into his study; and his fish is said to have been peppered with snuff on one occasion; and in general he could not have failed of that immortal knowledge which Goethe says they only gain who eat their bread in tears. He is represented as a much suffering, but patient and sufficiently meek, perhaps too lenient, man.

It seems the sum of \$80 per year was not assented to by everybody, for the protest of six men is entered in due form. A house was at last purchased for the minister's use, at an expense of £90. I find this in a partial town account for 1712.

At the annual meeting in March, 1713, the selectmen were instructed to search Portsmouth records and take out what papers belong to New Castle.

For 1713 the poor rate was £131 6s 3d. This is just about equal, calling money of the same value now as then, to our present state and county tax. It seems enormous, considering the probable wealth of the town at that time, and I do not understand how it was ever collected.

In the next year it was voted to instruct the selectmen to proceed by law against all debtors to the town, and to expend the money so collected in making an addition of twenty feet square to the minister's house and in making a "handsome fence about the garden and yard." This year many abatements of taxes are made; among others, Tobias Lear is abated six shillings. Little Harbor side has become of importance enough to have one selectman, and the tax list is now divided into two portions, one for Great Island side and one for Little Harbor side, but the amount of each is unfortunately omitted.

Sampson Sheafe is now for a series of years, with few interruptions, town-clerk. At this period I notice the beginning of a

more modern phraseology. *The* is written instead of *ye*. The General Assembly is sometimes called General Court, and the phrase *to represent this town* begins to be used. The handwriting is excellent and the spelling correct. Sept. 17, 1717, the town voted that James Rendle, William Seavey, and Theo. Atkinson join with the assemblymen of this town to let out their dividend or proportion of the £15,000 made by act of Assembly for a medium of trade.

Of this sum, whatever it may have been, £100 was appropriated for finishing the meeting-house, and £200 for building a bridge across Little Harbor, on the site of the new bridge recently completed. This last appropriation was rescinded in 1720.

At a general town meeting held March 1, 1720, it was voted "that Mr. Shurtleff have £20 per annum added to his salary to make up the sum of £100 per annum, & so de anno in annum during his life." Eight citizens publicly dissented from the increase in Mr. Shurtleff's salary.

I am not able to state when Theo. Atkinson died, but it must have been between March 3, 1719, and June 11, 1720; for at the former date Theo. Atkinson, Jr., who graduated at Harvard University in 1718, was chosen town-clerk, and on the last date Daniel Greenough, apparently a very prominent man, was chosen by the town to answer the complaint of Mary and Theo. Atkinson, executors of the estate of Theo. Atkinson, Esq., deceased. In the twenty-seven years during which Theo. Atkinson had held office in the town (for there is seldom a year in which he is not either clerk, selectman or assemblyman), I suppose there must have grown up a long account, and his heirs made a claim against the town for services rendered and money advanced. In reference to this dispute it was voted that Daniel Greenough should still be continued to represent the town in the affair of Mr. Atkinson, and that he is fully empowered to stand it out in law, or to agree either with himself or by choosing arbitrators, as he shall think fit, and the town will comply with the event. The issue of it was that the claim of Theo. Atkinson's executors and heirs appears to have been substantiated, for in March, 1722, I find this vote recorded :

"That the selectmen be a committee to receive all the money which is yet behind of the pews; accordingly to sue for and

recover the same and to pay to Mr. Atkinson the same towards his debt, and what is wanting of his claim which is agreed upon, being £114 10s, the selectmen shall have power to raise the same in the town by the 10th of May next, and to receive all other money due the town."

But the pew rents do not appear to have been forthcoming, for not long after they appropriated an unexpended balance, £87, all that seems to have been left out of £200 devoted to the abandoned scheme of a bridge over Little Harbor, towards liquidating the Atkinson debt.

It is not until the year 1720-'21 that any entry appears in the records of the annual meetings of the election of tythingmen. In that year Jacob Clark and Tobias Lear were chosen to that office.

I could wish there were more information in regard to schools. There were educated men here—more, indeed, than at present, or for a long time past. Theo. Atkinson sent his son Theo. to Cambridge. There was always a Sheafe in college in those days, and from my own house, George Jaffrey sent his son, George, to graduate in 1702. Since the last George Jaffrey went from Harvard College, 1736, I doubt if there has been another graduate from the town of New Castle. The day of her importance passed away with the decay or removal of her old families. Few, almost none of the graduates of college from the province of New Hampshire entered the ministry. They generally devoted themselves to public business. The first office that Theo. Atkinson, the second and most prominent of that name, ever held was town-clerk of New Castle. Religion was in the hands, and might almost be said to be the prerogative, of the Puritans of Massachusetts Bay. But Puritanism seems never to have taken any deep hold of this colony; nor was witchcraft at all successful. "Lithobolia, or the Stone-throwing Devil of New Castle," a very early pamphlet of one R. C., supposed to be Richard Chamberlain (secretary of the province under Andros), is written in the modern spirit of a curious narrative, hints at no human agency, is contented with a devil pure and simple, and no one seems to have been offered up as a sacrifice on account of his manifestations.

But though New Castle always had educated men, and often being the seat or residence of the governor, saw much of the

learned and great of the day, it was not until 1723, that she provided herself with a public schoolmaster. Before that I presume those children who went to school at all were sent to Portsmouth. For in the year 1710 there is this memorandum in the records: "The town being indebted to the schoolmaster at Portsmouth and to the clerk of the quarter session for fees, being presented for want of a pound, John Card ordered to pay them their fees." In 1723, however, appears the first distinct reference to public schools. It was then declared that the selectmen are empowered to hire a schoolmaster for the year ensuing and to make a rate of £60, separate from any other town charge, for payment of the same; and that the constable that shall collect the rate for the Island side pay the money gathered on said list to the selectmen on the Island side; and what money the constable on Sandy Beach side shall collect shall be delivered to the selectman that is or shall be chosen on that side, and to be for hiring a schoolmaster on that side as the inhabitants on that side shall think fit.

The substance of this is that the £60 was to be expended for schools in New Castle proper and in her outlying territory, now Rye, in proportion to the tax list for the several places. It thus appears that one hundred and fifty years ago New Castle was paying so large a sum as £100 besides house rent to the minister, and devoting £60 to public schools.

In this same year I notice for the first time a direct vote whereby money is appropriated for an ensuing year's town expenses. Hitherto it does not appear that any action was ever taken toward what is called in all modern town warrants "raising money." The selectmen were evidently free to make such a rate as would cover expenditures. The town never voted at its meetings how much money should be spent. It is probable this grew out of the fact that for a long period the tax assessed by the provincial governor formed the bulk of the amount to be raised in the town. When notice came from the treasurer of the province of a rate to be made, the selectmen added a small sum for the use of the town, as we have seen in the first year, 1693, £23 6s for the province, £1 14s for the town. When the minister's salary came to be added, that was a sum fixed and counted upon. Besides, it was acted upon and settled in open town meeting, and thus was in the nature of an appropriation. But now as the town's ex-



penses grew and became more miscellaneous, the public officers perhaps began to be held more strictly accountable, I find the wise, and as I believe, somewhat independent freeholders of New Castle declaring how much money shall be raised for the year 1723. It was £190, "exclusive of the schoolmaster's salary."

On one of the last leaves of the second volume of records, with the date of 1726, there is an entry of a convention of a part of New Castle, at which a commissioner was chosen to oppose a petition of the inhabitants, or a part of them, of Sandy Beach. This I suspect—from the fact that Rye was incorporated April 30, 1726—was to oppose the granting a town charter to that portion of New Castle known as Sandy Beach, or sometimes Little Harbor Side.

In the same year an attempt was made to increase Mr. Shurtleff's salary by £40, but it apparently failed.

The record of the last town meeting contained in these volumes is of the date of March 1, 1725-26. It contains nothing of consequence except the election of officers, among which appear as usual the names of Sampson Sheafe and Theo. Atkinson. Rotation in office was evidently not the doctrine of that day. There is contained on an obverse side of a leaf in the first volume the doings of the town when Rev. John Blunt was called and settled as the minister of the town, dated 1731-32, and this concludes the ecclesiastical history of the town contained in these records. Blunt was followed by Robinson, Chase, Noble. The last named died in 1792, since which, for eighty-two years, the church has had no settled minister. With the death of Rev. Oliver Noble, it is believed the connection between the town and the church ceased. The town appears to have held possession, and finally to have sold all property belonging to the church, except the church building. The parsonage house has disappeared, but the parsonage well still supplies the buckets of a small neighborhood, and on its curb, in a warm summer day, the village gossips still loiter and tell the latest tale. But though the church has been so long a time without a preacher regularly called and settled, it has not been without preaching; and I ought not to omit to mention here the services of Rev. Lucius Alden, a member of this society, who for more than a quarter of a century has, without ostentation, noise or reward, scrupulously performed every pastoral duty toward the whole

people of New Castle. The fishermen gather and spend their Sundays on the wharves and rocks, instead of listening to Mr. Alden ; but he would find himself mistaken who should imagine on that account he could speak lightly of the parson in their presence. While he has not neglected any of his self-imposed work, he has not omitted also to gather up every bit of local history and fast-fading tradition ; and I know of no man who has such a store of what I may call, in this presence, without reproach, old-fashioned furniture.

As far as the civil history is concerned, the last named in these volumes is as stated above, March 1, 1725-26. These volumes are full of land grants, to which I have paid little attention ; as far as I have examined, they are of no general interest. But were I asked what the public of those days in New Castle were most interested in, I should say the division of the public lands. There are constant notices of action taken about them ; committees constantly appointed to apportion, re-divide, and re-adjust boundaries.

There are also entries of births, deaths, and marriages, many of them of a date subsequent to 1725. There are family genealogies that look as if they were copied verbatim from family Bibles. There are also, lastly and finally, the entry of private marks for animals, by which to identify them. I give an example from the first volume : " Tobias Leer—his ear mark for stock, viz. : a top cutt in both ears and 2 slits in ye top of ye right ear."

The town records of New Castle, from the close of the period covered by these volumes to about 1756, are missing. They were loaned, taken to England, and never were returned. From 1756 to the present time they are complete.

There is a school of philosophy which sees the whole in a part or a particle ; who make much of unity and identity, and who profess to see the same power working through all things after the same methods. Likewise the physiologist constructs from a single bone the whole skeleton. I suppose the student of history has even a further task ; he must not only put together the skeleton, joint upon joint, but must cloth it in flesh and reanimate it. But I do not feel sure I have brought to your observation any materials of intrinsic value for such a purpose, yet I may venture to remind you, as the records do themselves, that in the early history of this province Great Island was of considerable consequence,

and that we are fortunate in being able to trace so fully its annals, and that an opportunity is now offered of preserving them from oblivion.

The traditions, the habits and manners, customs and peculiar dialect of the people of New Castle are rapidly passing away. They have had, in the most marked degree, all the peculiarities belonging to people living on an island; eastward of all thoroughfares and lines of travel, undisturbed by the so-called progress of the age, and following, until within a few years, the sea almost exclusively.

And their seafaring has been not in the track of men, but of fish; so that their lives when away have been still more remote, solitary, and incommunicable than when at home. Thus their characteristics were strengthened into a type which even now perpetuates itself in their children.

The world has quite recently found out these people, and is now rapidly obliterating, with its commonplace, their harmless oddities of custom and speech. I may be pardoned for saying that nowhere in the world, where the earth and the ocean are neighbors, do I know so beautiful a situation as New Castle; and, also, for a secret satisfaction, that the whole island is one immense ledge, and, consequently, pretty much out of the way of improvements. I could wish, also, though I have the strongest affection for my fellow townsmen, that at some time—and it need not have been very far back—a generation of islanders could have been preserved in spirits, for the delight of antiquaries and haters of change and innovation.

With no disposition to set the world back or check its course, I cannot help thinking the new world is a little too new to be a comfortable abode for a certain class of men. We have good authority for saying that no house is fit to live in until it is three hundred years old; and how much longer must a country be settled! Our institutions are raw and experimental. There is too much land to be cleared and burnt. There is, in short, too much to be done here before one can begin to live and to think. Nor do I see, as yet, that our political freedom has given us any superiority over other people, except it may be physically. The scholar and the thinker, the poet and the artist need to be furnished with an atmosphere and surrounded with institutions and

traditions friendly to their productive powers, or with an inheritance, a capital stock, a road opened and adorned with everything suggestive. Their political condition does not add, nor do I see how it can subtract much from their activity. With "Plato's Republic" in his hand, the thinking man is free enough anywhere.

The theory of that work is the rule of the best, that is, of those who know best the art of governing; on the same principle that we hire a carpenter to build a house and not a shoemaker. That is the *theory* of our republic. *In fact*, we are governed by chance, and the creatures of chance; and hitherto it seems chance has been on our side. It is pleasant to escape for awhile from the inaptitude of our law-makers, and the rawness of much that meets us on every hand, into the liberties of the imagination; it is even a pleasure to turn from history as it is being made, from the chaos in which we can as yet discern no form or significance, and leisurely survey the fragmentary records of an obscure and forgotten village. Unimportant, as I doubt not they are, they help to make up a *part*; and it is not without example, should they in future ages flower into something beyond our expectations.

NOTE. The substance of this address has been embodied into Mr. Albee's History of New Castle.



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TO THE

## GENEALOGICAL AND BIOGRAPHICAL SKETCHES,

PREPARED BY THE LATE

GOVERNOR WILLIAM PLUMER.

These sketches, in manuscript, were presented to the New Hampshire Historical Society, by the descendants of Governor Plumer.

The society has caused them to be bound in five volumes and carefully indexed.

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